

IDAHO ADMINISTRATIVE BULLETIN

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October 6, 1999

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rulemaking activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 98-1 refers to the first Bulletin issued in calendar year 1998, Bulletin 99-1 refers to the first Bulletin issued in calendar year 1999, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1999 is cited as Volume 99-1. The December 1998 Bulletin is cited as Volume 98-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rulemaking**, printed in each Bulletin.*

TYPES OF RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rulemaking. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULE

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the rulemaking to the temporary and/or proposed rule stage.

PROPOSED RULE

A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULE

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) the protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit.*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.

A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.

An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.

PENDING RULE

A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and

remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:

- a) the reasons for adopting the rule;
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;
- c) the date the pending rule will become final and effective; and
- d) an identification of any portion of the rule imposing or increasing a fee or charge.

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.

FINAL RULE

A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone

(208) 332-1820.

The Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and *Individual Rulemaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address:

<http://www.state.id.us/> - from Idaho Home Page select the Administrative Rules link.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the "IDAPA" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.060.02.c.ii.

"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Subsection 060.02.c.

"ii." refers to Subsection 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-9901). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 38-0501-9901"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), "Rules of the Division of Purchasing" (Chapter 01).

"9901" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 1999.

*Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:*

"(BREAK IN CONTINUITY OF SECTIONS)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

BULLETIN PUBLICATION SCHEDULE FOR 1999

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99-1	January, 1999	November 18, 1998	January 6, 1999
99-2	February, 1999	December 23, 1998	February 3, 1999
99-3	March, 1999	January 20, 1999	March 3, 1999
99-4	April, 1999	February 24, 1999	April 7, 1999
99-5	May, 1999	March 24, 1999	May 5, 1999
99-6	June, 1999	April 21, 1999	June 2, 1999
99-7	July, 1999	May 26, 1999	July 7, 1999
99-8	August, 1999	June 23, 1999	August 4, 1999
99-9	September, 1999	July 21, 1999	September 1, 1999
99-10	October, 1999	August 25, 1999	October 6, 1999
99-11	November, 1999	September 22, 1999	November 3, 1999
99-12	December, 1999	October 20, 1999	December 1, 1999

BULLETIN PUBLICATION SCHEDULE FOR 2000

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
00-1	January, 2000	November 17, 1999	January 5, 2000
00-2	February, 2000	December 22, 1999	February 2, 2000
00-3	March, 2000	January 19, 2000	March 1, 2000
00-4	April, 2000	February 23, 2000	April 5, 2000
00-5	May, 2000	March 22, 2000	May 3, 2000
00-6	June, 2000	April 19, 2000	June 7, 2000
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00-11	November, 2000	September 20, 2000	November 1, 2000
00-12	December, 2000	October 25, 2000	December 6, 2000

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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.03.03 - IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE
AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule will replace the subsections of the rule rejected by SCR 115 in the 1999 legislature concerning the use of the Livestock Protection Collar (LPC). In addition, subsequent to passage of HB 99 in the 1999 legislative session, these rules will combine Chemigation (IDAPA 02.03.04) and Pesticide Use and Application Rules (IDAPA 02.03.03) and name the combined rule "Rules Governing Pesticide and Chemigation Use and Application," (IDAPA 02.03.03). The existing Chemigation rules (IDAPA 02.03.04) will be repealed in their entirety. In addition, this temporary and proposed rule change will: add two crops to the list of non-food crops; provide for consistent licensing by issuing two-year Pesticide Dealer Licenses so all pesticide licenses will be effective for two years; and revise the aquatic weed applicator category to more accurately reflect activities in this licensing category.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These rules are proposed to replace those Subsections rejected pursuant to SCR 115 in the 1999 legislative session with revised language. In addition, subsequent to passage of HB 99 in the same legislative session that combined the Chemigation and Pesticide laws into one law titled Idaho Pesticides and Chemigation Law, Chapter 34, Title 22, Idaho Code necessitate combining of the respective rules into one.

FEE SUMMARY: The following is a specific description of the fee or change imposed or increased: There is a provision for a two (2) year Pesticide Dealers License at \$100 rather than the current one (1) year license for \$50.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rodney Awe, Agriculture Program Manager, at (208) 332-8615.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 24th day of August, 1999.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500 – Telephone
(208) 334-4623 -- Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0303-9901

IDAPA 02
TITLE 03
Chapter 03

02.03.03 - IDAHO DEPARTMENT OF AGRICULTURE RULES
GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.03.03, "Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application". (7-1-99)T

02. Scope. This chapter has the following scope: to govern the use and application of pesticides; licensing of pesticide applicators and registration of pesticides for use in Idaho; registration and licensing requirements for use of the Livestock Protection Collar; testing and recertification of licensees; record keeping requirements; financial responsibilities; aerial applications of pesticides; wind restrictions; pesticide/fertilizer mix restrictions; experimental use permits; restrictions to protect pollinators; storage of pesticide containers; non-domestic pesticides; phenoxy herbicide restrictions; application of pesticides near hazard areas; microencapsulated methyl parathion restrictions; daminozide (Alar) restrictions; pesticide use on alfalfa ~~seed and~~ carrot, onion, radish, or clover seed; ~~and unusable pesticides collection and disposal; and to govern licensing and responsibilities for chemigation; signage for chemical usage; shut down requirements; pressure switch, chemical injection, metering pump, system interlock requirements, and wind speed precautions; irrigation system connections; flood, basin, furrow, border chemigation; sprinkler, drip chemigation; anti-pollution devices; irrigation line check valve model certification; use of Anhydrous Ammonia; and to include variances.~~ (3-20-97)(7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

004. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: (3-20-97)

01. Air Gap. A physical separation between the free flowing discharge end of a domestic water supply system pipeline and an open or non-pressure receiving vessel. (7-1-99)T

02. Basin Irrigation. Irrigation by flooding areas of level land surrounded by dikes. (7-1-99)T

03. Border Irrigation. Irrigation by flooding strips of land, rectangular in shape and cross leveled, bordered by dikes. (7-1-99)T

04. Certification. Passing one (1) or more examinations, to initially demonstrate an applicant's competence, as required by the licensing provisions of this act, in order to use or distribute pesticides, or to act as a pesticide consultant. (3-20-97)

05. Check Valve. A certified valve designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (7-1-99)T

06. Chemigator. Any person engaged in the application of chemicals through any type of irrigation

system. (7-1-99)T

07. Cross-Connection. Any connection that may have chemical injected or introduced into the domestic water supply system and has the potential of or is connected to the domestic water supply system. (7-1-99)T

028. Demonstration And Research. The use of restricted use pesticides to demonstrate the action of the pesticide or conduct research. (3-20-97)

09. Domestic Water Supply System. Any system providing water for human use. (7-1-99)T

10. Drip Irrigation. A method of microirrigation wherein water is applied as drops or small streams through emitters. (7-1-99)T

11. Flood Irrigation. Method of irrigation where water is applied to the soil surface without flow controls, such as furrows, borders or corrugations. (7-1-99)T

12. Flow Rate. The weight or volume of flowable material per unit of time. (7-1-99)T

13. Furrow Irrigation. Method of surface irrigation where the water is supplied to small ditches or furrows for guiding the water across the field. (7-1-99)T

0314. Hazard Area. Cities, towns, subdivisions or densely populated areas. (3-20-97)

0415. High Volatile Esters. Formulations of 2,4-D which contain methyl, ethyl, butyl, isopropyl, octylamyl and pentyl esters. (3-20-97)

16. Injection Pump. A pump that uses a gear, rotary, piston or diaphragm to develop the pressures exceeding the irrigation system pressure to inject a chemical. (7-1-99)T

17. Inspection Port. An orifice or other viewing device from which the low pressure drain and check valve may be observed. (7-1-99)T

0518. Low Volatile Esters. Formulations of 2,4-D; 2,4-DP; MCPA and MCPB which contain butoxyethanol, propylene glycol, tetrahydrofurfuryl, propylene glycol butyl ether, butoxy propyl, ethylhexyl and isoctyl esters. (3-20-97)

0619. Mixer-Loader. Any person who works under the supervision of a professional applicator in the mixing and loading of pesticides to prepare for, but not actually make, applications. (3-20-97)

20. Pressure Switch. A device which will stop the chemical injection pump when the water pressure decreases to the point where chemical distribution is adversely affected. (7-1-99)T

0721. Recertification. The requalification of a certified person through seminar attendance over a set period of time, or taking an examination at the end of a set period of time, to ensure that the person continues to meet the requirements of changing technology and maintains competence. (3-20-97)

22. Reduced Pressure Principle Backflow Prevention Assembly (RP). An assembly containing two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. (7-1-99)T

0823. Seminar. Any Department-approved meeting or activity convened for the purpose of presenting pesticide recertification information. (3-20-97)

24. Sprinkler Irrigation. Method of irrigation in which the water is sprayed, or sprinkled, through the

air to the ground surface. (7-1-99)T

25. System Interlock. Safety equipment used to ensure that a chemical injection pump will stop if the irrigation pumping plant stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline. The safety equipment may also be used to shut down the irrigation system if the injection system fails. (7-1-99)T

26. Vacuum Relief Valve. A device to automatically relieve or break a vacuum. (7-1-99)T

27. Venturi. A differential pressure injector that operates on a pressure difference between the inlet and outlet of the injector and creates a vacuum inside the body, which results in suction through the suction port. (7-1-99)T

28. Venturi Injection System. A chemical injection system which operates with a Venturi using the suction from the Venturi that can be used to inject and mix chemicals into the water. (7-1-99)T

29. Working Pressure. The internal operating pressure of a vessel, tank or piping used to hold or transport liquid. (7-1-99)T

30. Waters Of The State. Any surface waters such as canals, ditches, laterals, lakes, streams, or rivers. (7-1-99)T

005. FINDINGS.

~~The amendments to Sections 250 and 800 are promulgated pursuant to Section 67-5226, Idaho Code. The rules confer a benefit by establishing and clarifying professional pesticide applicators' financial responsibility requirements related to the exclusions to coverage and the exemption of target property from damage coverage. Additionally, carrot seed fields have been declared nonfood/nonfeed pesticide application sites for the purposes of pesticide registration. These rules are promulgated pursuant to Section 67-5226, Idaho Code, in compliance with the deadlines in the governing law, Title 22, Chapter 34, Idaho Code. The rule changes are necessitated by the passage of H.B. 99 in the 1999 legislative session combining the Idaho Pesticide and Chemigation Laws. These rules will combine IDAPA 02.03.03, "Idaho Department of Agriculture Rules Governing Pesticide Use and Application," and IDAPA 02.03.04, "Rules Governing Chemigation," and name the combined rule IDAPA 02.03.03, "Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application". The existing Chemigation rules (IDAPA 02.03.04, "Rules Governing Chemigation") will be repealed in their entirety. In addition, the rule adds two (2) crops to the list of non-food crops; provides for consistent licensing by issuing two-year Pesticide Dealer licenses so all pesticide licenses will be effective for two (2) years; revises the aquatic weed applicator category to more accurately reflect activities in this licensing category; and the livestock protection collar rule changes are incorporated pursuant to SCR 115.~~ (3-19-99)(7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.

01. Demonstration Of Competence. (3-20-97)

a. Professional applicators shall not recommend the application or make an application of any pesticide for any purpose, unless they have demonstrated competence for that purpose, which competence must be demonstrated by passing Department examinations and becoming licensed in the appropriate categories listed in Subsection 100.02. (3-20-97)

b. An applicant shall demonstrate competency in the following areas: (3-20-97)

i. Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)

- ii. Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)
- iii. Laws, rules, and regulations governing pesticides. (3-20-97)
- iv. Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)
- v. Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)
- vi. Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)
- vii. Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)
- viii. Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)
- ix. Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (~~3-20-97~~)(7-1-99)T
- x. For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)
 - (1) Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)
 - (2) Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)
 - (3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)
 - (4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)
 - (5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)
 - (6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)
 - (7) Safe handling, attachment, and storage of LPC collars. (3-19-99)
 - (8) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)
 - (9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, properly positioned, and intact. (3-19-99)
 - (10) Knowledge of alternative controls of predation. (7-1-99)T
- xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)

- (1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)
- (2) Read and understand the labeling specific to the LPC. (3-19-99)
- (3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)
- (4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)
- (5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)
- (6) Properly dispose of the LPCs. (3-19-99)

02. Certification. A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the categories of pesticides they apply. (3-20-97)

a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)

i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)

ii. Agriculture. For persons ~~doing~~ conducting field crop applications. Agriculture Herbicide (AH). Certification in this category shall also certify a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category shall also certify a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). ~~(3-20-97)~~ (7-1-99)T

iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)

iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category shall exempt the applicant from the need to certify in this category. (3-20-97)

v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)

vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)

vii. Ornamental Herbicide (OH). For persons ~~doing~~ conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). ~~(3-20-97)~~ (7-1-99)T

viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)

ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)

x. General Vertebrate Control (GV). For ~~Animal Damage Control~~ Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling

vertebrates such as rodents, predators, and birds. (~~3-20-97~~)(7-1-99)T

xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (~~3-20-97~~)(7-1-99)T

xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)

xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)

xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)

xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)

xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)

xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)

xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (~~3-20-97~~)(7-1-99)T

xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)

b. Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)

c. Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)

d. Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)

i. Training shall be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)

ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility of mixtures, and protection of the environment. (3-23-98)

iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)

03. Department Examination Procedures. (3-20-97)

a. Examinations shall be administered by a designated agent. (3-20-97)

b. To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period shall be required before an applicant may retake an examination: (3-20-97)

i. One (1) week shall be required for the first failure. (3-20-97)

ii. Two (2) weeks shall be required for the second failure. (3-20-97)

iii. Thirty (30) days shall be required for the third or subsequent failures. (3-20-97)

04. Licensing Periods And Recertification. Beginning August 31, 2000, Pesticide Dealer licenses shall expire on August 31, of even numbered years and have a twenty four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even-numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (~~3-23-98~~)(7-1-99)T

a. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of fifteen (15) credits shall be earned by a professional applicator during each recertification period. (3-23-98)

ii. A completed request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the Department. Under exceptional circumstances, as described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)

iii. Credit will be given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, shall be tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)

v. Effective July 1, 1998, a recertification credit shall be based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be converted to three (3) credits for recertification purposes. (3-23-98)

vi. Verification of attendance at a seminar shall be accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent shall ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. (3-20-97)

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license. (3-20-97)

b. A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

05. Licensed Professional Applicator. Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. (3-20-97)

101. REGISTRATION AND LICENSING REQUIREMENTS FOR USE OF THE LPC.

01. Registration. Use restricted to United States Department of Agriculture, Animal and Plant Health Inspection Service, wildlife services (USDA, APHIS, WS) employees, licensing, and recordkeeping requirements for the LPC. (3-19-99)

a. Only the USDA, APHIS, WS shall register the LPC. USDA, APHIS, WS shall hereinafter be known as the registrant for the purpose of these rules. (3-19-99)

b. The LPC shall be transferred only by the registrant and only to professional applicators who are certified in the LC category and who are current employees of USDA, APHIS, WS. (3-19-99)

c. The LPC shall be used only by professional applicators with certification in the LC category who are current employees of the USDA, APHIS, WS. (3-19-99)

d. Before obtaining certification and licensing, LC applicants shall receive training and demonstrate competency in the areas listed in Subsection 100.01.b.x. and 100.01.b.xi. of these rules and satisfy Section 22-3404, Idaho Code. (3-19-99)

e. Only the manufacturer or registrant is authorized to fill collars with Compound 1080. Certified professional applicators or any other person shall not fill collars or remove the pesticide from the collars. (7-1-99)T

02. Use Of The LPC (Compound 1080). (3-19-99)

a. Use of collars shall conform to all applicable federal and state regulations. (3-19-99)

- b. Collars shall be used to take coyotes only. (3-19-99)
- c. Warning signs shall be posted at all usual points of entry to the area, including any access roads, or footpath or other walking route that enters the area. When there are no usual points of entry, signs shall be posted in the corners of the area or in any other location affording maximum visibility. (3-19-99)
- i. The signs shall remain visible and legible throughout the collar use. (3-19-99)
- ii. All warning signs shall be posted and inspected once a week by the certified Wildlife Services employee to ensure their continued presence and legibility, and will be removed when all collars are removed and accounted for. (3-19-99)
- iii. Warning signs shall be at least fourteen (14) inches by sixteen (16) inches with letters at least one (1) inch in height. (3-19-99)
- iv. All warning signs shall have a background color that contrasts with red. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," shall be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" shall be at the bottom of the sign. Letters for all words shall be clearly legible. A circle containing an upraised hand on the left and a stern face on the right shall be near the center of the sign. The inside of the circle shall be red, except that the hand and a large portion of the face shall be in a shade that contrasts with red. The length of the hand shall be at least twice the height of the smallest letters. The length of the face shall be only slightly smaller than the hand. (3-19-99)
- v. The name of the pesticide (Compound 1080) and the date collars were placed on the sheep or goats shall appear on the warning sign. (7-1-99)T
- d. If a collar is found to have been punctured by a predator attacking a collared animal, a complete and intensive search shall be conducted for the predator that punctured the collar. (3-19-99)
- i. Disposal of punctured or unserviceable collars and contaminated gloves, clothing, vegetation or soil shall be as prescribed by the 1080 LPC label and technical bulletin or through the ISDA pesticide disposal program. Disposal of animal remains shall be in accordance with label directions. (7-1-99)T
- e. Prior to any intended use or application of the LPCs, the professional applicator shall submit to ISDA a written notice of intended use, as prescribed by the ISDA. The notice shall contain the following: (3-19-99)
- i. The professional applicator's license number issued by the ISDA; (3-19-99)
- ii. A list of the names and addresses of the owners or persons in charge of the areas to be treated and a map of the geographic location of such areas; (3-19-99)
- iii. The approximate size of the area where treatment will take place; (3-19-99)
- iv. The intended period of use; and (3-19-99)
- v. The number of collars to be used. (3-19-99)
- f. USDA, APHIS, WS shall accurately keep and maintain the following records and reports: (3-19-99)
- i. Records of all collars distributed; (3-19-99)
- ii. The name and address of each professional applicator receiving the collars; and (3-19-99)
- iii. The dates and the number of collars received by each professional applicator. (3-19-99)
- iv. These records shall be maintained by USDA, APHIS, WS for a period of three (3) years and shall

be made available to the ISDA for inspection, duplication, and verification upon request by the ISDA. (3-19-99)

- g. The professional applicator shall accurately keep and maintain the following records and reports: (3-19-99)
 - i. Any suspected poisoning of humans, threatened or endangered species, domestic animals, or non-target wild animals shall be reported within seventy-two (72) hours or less to the ISDA and US EPA; (3-19-99)
 - ii. The name and address of the person on whose property the LPC was used or, if different from the property owner, the same information for the person in charge of the area where the collars will be used; (3-19-99)
 - iii. A map of the geographic location and size of the area in which the LPCs were used; (3-19-99)
 - iv. A summary report of the date each individual collar was obtained by the professional applicator, placed on sheep, punctured or ruptured (along with apparent cause), lost or unrecovered, or removed and put in storage, or disposed of through the ISDA Pesticide Disposal Program; (3-19-99)
 - v. The species, date, and location of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080 in LPCs; (3-19-99)
 - vi. The dates and results of each collar inspection; and (3-19-99)
 - vii. A written description of any complete and intensive search for missing collars or poisoned animals conducted as specified in these rules. (3-19-99)
 - viii. The records required by this rule shall be maintained by the professional applicator for a period of three (3) years and shall be made available to the ISDA for inspection, duplication and verification upon request of the ISDA. (3-19-99)
 - ix. A report of the records required by Subsection 101.02.g. shall be submitted to the ISDA as an annual summary report. (7-1-99)T
- h. Collars shall be used only upon sheep or goats within fenced pastures no larger than two thousand five hundred sixty (2,560) acres (four (4) square miles). Fenced pastures include all pastures that are enclosed by livestock fencing. In addition to wire livestock fences, and other man-made fences, such as rock walls, natural barriers such as escarpments, lakes, or large rivers may be used as fences, as long as they will prevent escape of sheep or goats. Fenced pastures and fences as herein defined shall be referred to elsewhere in this section as "area". Collars shall not be used on unfenced, open range. (7-1-99)T
- i. All appropriate alternative control methods must be considered before implementing use of the LPC. (7-1-99)T
- j. Each collar in use shall be inspected by the professional applicator once a week to ensure that it is properly positioned and unbroken. An inspection report on a form prescribed by the director shall be forwarded to ISDA following the conclusion of the project. (7-1-99)T
- i. If any collared animal is not accounted for in any two (2) consecutive checks, a complete and intensive search for the collared animal shall be conducted. (7-1-99)T
- ii. If more than four (4) LPCs are unaccounted for during any thirty (30) day period, WS employees shall remove all LPCs from all animals and terminate their use. Use of collars shall not be resumed until WS employees have provided ISDA with a written protocol defining adequate steps they shall take to prevent any losses of LPCs. (7-1-99)T
- k. Intact LPCs containing Compound 1080 shall be stored by USDA, APHIS, WS under lock and key in a dry place away from food, feed, domestic animals and corrosive chemicals, and in outbuildings or in outdoor storage areas attached to, but separate from, human living quarters. (7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

150. RECORDS REQUIREMENTS.

01. Applicator Records. Professional applicators shall maintain the following pesticide application records for three (3) years, ready to be inspected, duplicated, or submitted when requested by the Director. The records shall be maintained in a location designated by the professional applicator. ~~(3-20-97)~~(7-1-99)T

- 02. Record Contents.** Such records shall contain: (3-20-97)
- a. The name and address of the owner or operator of each property treated; and (3-20-97)
 - b. The specific crop, animal, or property treated; and (3-20-97)
 - c. The location by the address, general legal description (township, range, and section) or latitude/longitude of the specific crop, animal, or property treated; and (3-23-98)
 - d. The size or amount of specific crop, animal, or property treated; and (3-23-98)
 - e. The trade name or brand name of the pesticide applied; and (3-23-98)
 - f. The total amount of pesticide applied; and (3-23-98)
 - g. The dilution applied or rate of application; and (3-23-98)
 - h. The EPA registration number of the pesticide applied; and (3-23-98)
 - i. The date of application; and (3-20-97)
 - j. The time of day when the pesticide is applied; and (3-20-97)
 - k. The approximate wind velocity; and (3-20-97)
 - l. The approximate wind direction; and (3-23-98)
 - m. The full name of the person recommending the pesticide application; and (3-23-98)
 - n. The full name of the professional applicator applying the pesticide; and (3-23-98)
 - o. The license number of the professional applicator applying the pesticide; and (3-23-98)
 - p. Worker protection information exchange, prior to pesticide application, shall be documented by: (3-23-98)
 - i. Date of contact; and (3-23-98)
 - ii. Time of contact; and (3-23-98)
 - iii. Name of grower or operator contacted. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

200. FEES.

01. Pesticide Registration. On and after December 1, 1994, one hundred twenty dollars (\$120) per product. (3-20-97)

02. Professional Applicator's License. On and after July 1, 1996, one hundred twenty dollars (\$120) per licensing period of fourteen (14) months or more, sixty dollars (\$60) per licensing period of thirteen (13) months or less. (3-20-97)

03. Pesticide Dealer's License. ~~On and after~~ Beginning August 31, 2000, one hundred dollars (\$100) per licensing period of fourteen (14) months or more, fifty dollars (\$50) per licensing period of thirteen (13) months or less. November 1, 1991 ~~Prior to August 31, 2000, fifty dollars (\$50) for an annual license or partial year if the license is issued after August 31, 1999.~~ (3-20-97)(7-1-99)T

04. Private Applicator's License. A Restricted Use Category, ten dollars (\$10); a Chemigation Category, twenty dollars (\$20); or thirty dollars (\$30) for both categories. (3-20-97)

05. Examination Fee Per Examination Category. Ten dollars (\$10). (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

320. WIND VELOCITY RESTRICTIONS.

01. Restrictions. No person shall apply any pesticide in sustained wind conditions exceeding ten (10) miles per hour or in wind conditions exceeding product label directions, except as provided in Subsection 320.04. (3-23-98)(7-1-99)T

02. Exceptions. Application of pesticides by injection into application site or by impregnated granules shall be made according to label directions. (3-23-98)

03. Approval For Use Of Other Application Techniques. Other pesticide application techniques or methods may be approved by the Director or his agent on a case-by-case basis. (3-23-98)

04. Chemigation Wind Speed Precautions. Chemicals shall not be applied when wind speed favors drift beyond the area intended for treatment or when chemical distribution is adversely affected. (7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

800. PESTICIDE USE ON ALFALFA SEED, CARROT SEED, ONION SEED, RADISH SEED, AND CLOVER SEED.

01. Nonfood And Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, onion seed, radish seed, and clover seed crop fields are considered nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (3-19-99)(7-1-99)T

a. No portion of the seed alfalfa, carrot seed, onion seed, radish seed, or seed clover plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (3-19-99)(7-1-99)T

b. The seed conditioner shall keep records of individual growers' alfalfa, carrot, onion, radish, and clover seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. ~~(3-19-99)~~(7-1-99)T

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa, carrot, onion, radish, or clover seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. ~~(3-19-99)~~(7-1-99)T

f. No alfalfa, carrot, onion, radish, or clover seed grown or conditioned in this state shall be distributed for human consumption or animal feed. ~~(3-19-99)~~(7-1-99)T

g. All portions of the seed alfalfa, seed carrot, seed onion, seed radish, or seed clover plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. ~~(3-19-99)~~(7-1-99)T

02. Exemption. Alfalfa seed grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-20-97)

a. All pesticides used are labeled for use on alfalfa, and have established residue tolerances which allow food or feed use; and (3-20-97)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

851. -- 99960. (RESERVED).

961. GENERAL CHEMIGATION REQUIREMENTS.

This Section prescribes equipment listing requirements, posting requirements for certain types of pesticides, use of pesticide label directions, a prohibition from chemigation over waters of the state. (7-1-99)T

01. Chemigation Equipment Standards. Equipment manufacturers shall provide to the Department of Agriculture verification that the equipment meets the standards established in these rules. If the equipment meets the standards, it shall be placed on the Department's list of approved chemigation equipment. (7-1-99)T

02. Posting Requirements. Labels of toxicity category I pesticide products (those with the label signal word "DANGER", allow chemigation on their label and contain posting requirements specific to chemigation) shall be posted in accordance with their label. (7-1-99)T

03. Pesticides Labeled For Chemigation. The chemigator shall use only pesticides labeled for chemigation when chemigating. (7-1-99)T

04. Chemigating Over Waters Of The State. Chemigating over waters of the state shall be prohibited, except for variances allowed in Section 971. (7-1-99)T

962. IRRIGATION SYSTEMS.

This Section prescribes the equipment required for each type of irrigation system when chemigation is to be used.

(7-1-99)T

01. Sprinkler Or Drip Irrigation. If chemicals are being chemigated through the sprinkler or drip irrigation system, the chemigator shall verify that the system complies with either Subsection 962.01.a. or 962.01.g. and shall include all of the additionally specified equipment for each:

(7-1-99)T

a. Irrigation Line Check Valve Requirement. The system shall contain a functional Irrigation Line Check Valve, (Section 966); and

(7-1-99)T

b. Low Pressure Drain Requirement. The system shall contain an Automatic Low Pressure Drain, (Section 970); and

(7-1-99)T

c. Inspection Port Requirement. The system shall contain an Inspection Port, (Section 969); and

(7-1-99)T

d. Vacuum Relief Valve Requirement. The system shall contain a Vacuum Relief Valve or a combination Air and Vacuum Relief Valve, (Section 968); and

(7-1-99)T

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and

(7-1-99)T

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963); or

(7-1-99)T

g. Gooseneck Pipe Loop, Downhill and Over-A-Hill Requirement. For surface water impoundments the system may use a Gooseneck Pipe Loop, Downhill and Over-A-Hill system rather than the requirements of Subsections 962.01.a. through 962.01.f., (Section 967); and

(7-1-99)T

h. Chemical Injection System Requirement. The system shall contain a Chemical Injection System, (Section 965); and

(7-1-99)T

i. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock), (Section 963).

(7-1-99)T

02. Flood, Basin, Furrow, Or Border Irrigation. If a chemical, including anhydrous ammonia, will be applied by flood, basin, furrow, or border chemigation through a gravity flow system, the chemigator shall verify that the system complies with the following requirements: systems using a gravity flow dispensing system shall meter the chemical into the water at the head of the field and downstream of a hydraulic discontinuity such as a drop structure or weir box to decrease potential for water source contamination from backflow if water flow stops.

(7-1-99)T

03. Domestic Water Supply System Cross-Connected For Chemigation. Any irrigation system used for chemical application cross-connected to a domestic water supply system shall verify that the system complies with either Subsection 962.03.a. or 962.03.d. and shall include all other additionally specified equipment for each:

(7-1-99)T

a. Reduced Pressure Principle Backflow Prevention Assembly (RP). The irrigation system shall contain a functional reduced pressure backflow preventer assembly (RP); and

(7-1-99)T

i. The RP assembly shall be located on the irrigation pipeline between the water supply pump and the point of chemical injection, and downstream from any domestic water supply diversion point.

(7-1-99)T

ii. The purpose of a Reduced Pressure Principle Backflow Prevention Assembly (RP) is to keep contaminated water from flowing back into a domestic water supply system when some abnormality in the system causes pressure to be temporarily higher in the contaminated part of the system than in the domestic water supply

system piping. (7-1-99)T

iii. The RP assembly shall have been manufactured in full conformance with the American National Standards Institute (ANSI)/American Water Works Association (AWWA) ANSI/WWA C511 Standard for Reduced Pressure Principle Backflow Prevention Assemblies established by the AWWA; and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California (USC FCCCHR); or an equivalent, Department-approved testing facility. (7-1-99)T

b. Chemical Injection System Requirement. The system shall contain a Chemical Injection System. (Section 965); and (7-1-99)T

c. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock). (Section 963); or (7-1-99)T

d. Air Gap (AG). The water from the domestic water supply system shall be discharged into a reservoir tank prior to the chemical injection. An air gap shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel – in no case less than one (1) inch. Chemical injection shall not occur upstream of the air gap; and (7-1-99)T

e. Chemical Injection System Requirement. The system shall contain a Chemical Injection System. (Section 965); and (7-1-99)T

f. Chemical Injection Line Shut Down (System Interlock) Requirement. The system shall contain a Chemical Injection Line Shut Down (System Interlock). (Section 963). (7-1-99)T

963. CHEMICAL INJECTION LINE SHUT DOWN (SYSTEM INTERLOCK).

In every chemigation system, there shall be a functional system interlock designed and installed to shut down the chemical injection unit when chemical distribution is adversely affected. The system interlock shall connect the water supply pump and the chemical injection unit or connect the irrigation line pressure switch and the chemical injection unit if there is no water supply pump and the system is pressurized. The chemical injection line shall contain one (1) of the following options found in Subsections 963.01 through 963.05, to ensure that a chemical injection pump will stop if the irrigation pump stops to prevent the entire chemical mixture from emptying from the supply tank into the irrigation pipeline: (7-1-99)T

01. Electrical Interlock. The electrical interlock shall contain one (1) of the options in Subsections 963.01.a. through 963.01.d. and shall include all of the additionally specified equipment for each: (7-1-99)T

a. Electric Motor-Driven Irrigation Pump or Power Panel: (7-1-99)T

i. The electrical controls for the irrigation pump panel or power panel at the pivot or linear shall be interlocked with an electric powered chemical injection pump so that if the water pump shuts off or the pressure switch shuts off power at the panel, the chemical injection pump shall shut off (it is recommended that the interlock also be provided to shut off the irrigation system if the chemical injection pump shuts off); and (7-1-99)T

ii. Injection Line Check Valve. (Section 964), shall be installed; and (7-1-99)T

iii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (7-1-99)T

b. Solenoid Operated Valve. A functional automatic quick-closing check valve and a functional normally closed solenoid operated valve connected to the system interlock shall be: (7-1-99)T

i. Normally closed; and (7-1-99)T

ii. Located on the intake side of the injection pump; and (7-1-99)T

iii. Open only when there is adequate pressure in the irrigation line to insure uniform chemical distribution; and (7-1-99)T

iv. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (7-1-99)T

c. A functional automatic quick-closing check valve and a functional normally closed hydraulically operated check valve. The hydraulically operated check valve shall be connected to the main water line such that the valve only opens when the main water line is adequately pressurized. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (7-1-99)T

d. A functional automatic quick-closing check valve and a functional vacuum relief valve located in the chemical injection line between the positive displacement chemical injection pump and the chemical check valve. This alternative is appropriate only for those chemigation systems using a positive displacement chemical injection pump and is not for use with Venturi injection systems. This valve shall be elevated at least twelve (12) inches above the highest fluid level in the chemical supply tank and shall be the highest point in the injection line. The valve shall open at six (6) inches water vacuum or less and shall be spring-loaded or otherwise constructed such that it does not leak on closing. It shall prevent leakage from the chemical supply tank on system shutdown. The valve shall be constructed of chemically resistant materials. In addition, in pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (7-1-99)T

02. Mechanical Interlock. The mechanical interlock shall contain one (1) of the options in Subsections 963.02.a. or 963.01.b. and shall include all of the additionally specified equipment for each: (7-1-99)T

a. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by operating the chemical injection equipment from the engine electrical system, or an electrical generator driven by the pumping plant power unit; and (7-1-99)T

i. Injection Line Check Valve, (Section 964), shall be installed; and (7-1-99)T

ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch; or (7-1-99)T

b. Irrigation pumps driven by an internal combustion engine shall be interlocked between the chemical injection pump and the irrigation pump by belt from the drive shaft of the irrigation pump or an accessory pulley of the engine; and (7-1-99)T

i. Injection Line Check Valve, (Section 964), shall be installed; and (7-1-99)T

ii. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (7-1-99)T

03. Hydraulic Interlock. Functional, normally closed, hydraulically operated check valve. The control line must be connected to the main water line such that the valve opens only when the main water line is adequately pressurized. This valve must prevent leakage from the chemical supply tank on system shutdown. The valve must be constructed of chemically resistant materials, such as a Venturi System. (7-1-99)T

04. Human Interlock. (7-1-99)T

a. A human interlock shall consist of human supervision on-site during the injection of a chemical into the irrigation system for one (1) hour or less to shut down the system in case of failure of the injection pump or irrigation system; and (7-1-99)T

b. Injection Line Check Valve (Section 964) shall be installed; and (7-1-99)T

c. In pressurized irrigation systems, the irrigation line or water pump shall include a functional pressure switch. (7-1-99)T

05. Other Approved Option. Any other option approved by the Director. (7-1-99)T

964. INJECTION LINE CHECK VALVE.

01. Injection Line Check Valve. A functional, spring-loaded injection line check valve with a minimum of ten (10) pounds per square inch (psi) opening (cracking) pressure plus one (1) psi per one (1) foot of elevation between the chemical supply tank and the point of chemical injection and shall be: (7-1-99)T

a. Located between the chemical injection pump and the point of chemical injection into the irrigation line; and (7-1-99)T

b. Made of chemically resistant material; and (7-1-99)T

c. Designed to prevent irrigation water under operating pressure from entering the chemical injection line; and (7-1-99)T

d. Designed to prevent leakage from the chemical supply tank on system shut down; and (7-1-99)T

02. A Substitute System. The injection line check valve shall be a substitute for both the solenoid-operated valve and the functional, automatic, quick closing check valve in the chemical injection line. (7-1-99)T

965. CHEMICAL INJECTION SYSTEM.

All chemical injection systems, except for flood, basin, furrow, or border chemigation through a gravity flow system, shall use: (7-1-99)T

01. Metering Pump. A metering pump such as a positive displacement injection pump effectively designed and constructed of materials that are compatible with chemicals and capable of being fitted with a system interlock; or (7-1-99)T

02. Venturi System. Venturi systems including those inserted directly into the main water line, those installed in a bypass system, and those bypass systems boosted with an auxiliary water pump. Booster or auxiliary water pumps shall be connected with the system interlock such that they are automatically shut off when the main line irrigation pump stops, or in cases where there is no main line irrigation pump, when the water pressure decreases to the point where pesticide distribution is adversely affected. Venturies shall be constructed of chemically resistant materials. The line from the chemical supply tank to the Venturi shall contain a functional, automatic, quick closing check valve to prevent the flow of liquid back toward the chemical supply tank. This valve shall be located immediately adjacent to the Venturi chemical inlet. This same supply line shall also contain either a functional normally closed solenoid-operated valve connected to the system interlock or a functional normally closed hydraulically operated valve which opens only when the main water line is adequately pressurized. In bypass systems as an option to placing both valves in the line from the chemical supply tank, the check valve may be installed in the bypass immediately upstream of the Venturi water inlet and either the normally closed solenoid or hydraulically operated valve may be installed immediately downstream of the Venturi water outlet. (7-1-99)T

966. IRRIGATION LINE CHECK VALVE.

01. Construction. Construction shall: (7-1-99)T

a. Consist of at least a single check valve; (7-1-99)T

b. Be of heavy duty construction with all materials resistant to corrosion or protected to resist corrosion; (7-1-99)T

c. Be spring-loaded with a chemically resistant and resilient seal that provides a watertight seal against reverse flow; (7-1-99)T

d. Not consist of metal to metal seal surfaces; (7-1-99)T

- e. Be rated at a pressure equal to or greater than the system working pressure; and (7-1-99)T
- f. Be positioned and oriented according to manufacturer specifications to ensure proper functioning. (7-1-99)T
- 02. Location.** The Irrigation Line Check Valve shall: (7-1-99)T
 - a. Be located in the pipeline between the irrigation pump and the point of chemical injection into the irrigation pipeline, and downstream from a vacuum relief valve and automatic low pressure drain. (7-1-99)T
 - b. When installed, be on a horizontal plane and level. A deviation of not more than ten (10) degrees from horizontal is permitted. (7-1-99)T
- 03. Labeling Of The Check Valve Or Valve Assembly.** Shall be labeled with the following: (7-1-99)T
 - a. Manufacturer's name and model; (7-1-99)T
 - b. Working pressure in pounds per square inch (psi); (7-1-99)T
 - c. Maximum flow rate in gallons per minute; and (7-1-99)T
 - d. Direction of flow. (7-1-99)T
- 04. Model Certification.** The manufacturer of the irrigation line check valve shall provide verification to the director that the valve model has been tested and certified by an independent laboratory such as the Center For Irrigation Technology, Fresno, California and Great Plains Meter, Inc. Aurora, Nebraska, or other Department approved facility as meeting the following leakage test criteria: (7-1-99)T
 - a. Low Pressure Drip Test. A check valve shall withstand for sixteen (16) hours without leakage at the valve seat an internal hydrostatic pressure equivalent to the head of a column of water five (5) feet (1.5m) high retained within the downstream portion of the valve body. No leakage shall occur as evidenced by wetting of paper placed beneath the valve assembly. This test is to be conducted with the valve in both the horizontal and vertical position if intended for such use. (7-1-99)T
 - b. High Pressure Test. A check valve shall withstand for one (1) minute, without leakage at joints or at the valve seat, an internal hydrostatic pressure of two (2) times the rate of working pressure of the valve. (7-1-99)T
- 967. GOOSENECK PIPE LOOP, DOWNHILL AND OVER-A-HILL.**
 - 01. Location.** Shall be located in the main water line immediately downstream of the irrigation water pump. (7-1-99)T
 - 02. Position.** The bottom side of the pipe at the loop apex shall be at least twenty-four (24) inches above the highest sprinkler or other type of water emitting device on the highest part of the field. (7-1-99)T
 - 03. Pipe Loop.** The loop shall contain either a vacuum relief or combination air and vacuum relief valve at the apex of the pipe loop, and if the water pump is portable and the apex is a straight, horizontal section of pipe, the pipe shall be level. (7-1-99)T
 - 04. Location Of Chemical Injection Port.** The chemical injection port shall be located downstream of the apex of the pipe loop and at least six (6) inches below the bottom side of the pipe at the loop apex. (7-1-99)T
 - 05. Use Restriction.** Shall not be allowed when pumping from a groundwater source. (7-1-99)T

968. VACUUM RELIEF VALVE OR COMBINATION AIR AND VACUUM RELIEF VALVE.

01. Location. Shall be located on top of the horizontal irrigation pipeline on the upstream side of the check valve. (7-1-99)T

02. Orifice Size. Shall have a total (individually or combined) orifice size of at least three-fourths (3/4) inch diameter for a four (4) inch pipe, a one (1) inch diameter for a five (5) to eight (8) inch pipe, a two (2) inch diameter for a nine (9) to eighteen (18) inch pipe, and a three (3) inch diameter for a nineteen (19) inch and greater pipe. (7-1-99)T

969. INSPECTION PORT.

01. Inspection Port. The inspection port can be combined with a mounting of a vacuum relief or combination air and vacuum relief valve and shall: (7-1-99)T

a. Be located on the pipeline between the irrigation pump and the irrigation pipeline check valve directly above the low pressure drain; (7-1-99)T

b. Have a minimum diameter opening of four (4) inches from which the check valves and low pressure drain shall be visible; (7-1-99)T

c. Be mounted with quick disconnects, quick coupler, ring lock or flange fittings, dresser couplings or other fittings that allow for easy removal of the inspection port. Any bolts shall be located on the outside of the irrigation water pipe; and (7-1-99)T

d. Be located near the irrigation line check valve to allow for inspections and check for malfunctioning of the irrigation line check valve and low pressure drain. (7-1-99)T

970. AUTOMATIC LOW PRESSURE DRAIN.

01. Automatic Low Pressure Drain. Automatic low pressure drain shall: (7-1-99)T

a. Be installed upstream of the irrigation line check valve at the lowest point of the horizontal water supply pipeline; (7-1-99)T

b. Not extend into the horizontal pipe beyond the inside surface of the bottom of the pipe; (7-1-99)T

c. Be at least three-fourths (3/4) inch in diameter with a closing pressure of not less than five (5) psi; (7-1-99)T

d. If the drain is within twenty (20) feet of the water source, contain a corrosion resistant tube, pipe, hose, or similar conduit three-fourths (3/4) inch in diameter to discharge a solution at least twenty (20) feet down slope from the irrigation water source and away from any other water sources; and (7-1-99)T

e. Not have any valves located on the outlet side of the drain tube. (7-1-99)T

971. VARIANCES.

The Department may grant variances with such conditions and safeguards as it determines are necessary to prevent contamination or pollution of the waters of the state. Issuance of variances shall not relieve the recipient from compliance with all other responsibilities under the Pesticide and Chemigation Act and Rules. Such variances may be granted upon a request from the owner or operator of the property affected and approval by the Director. The application will state fully the grounds of the application and the facts relied upon. Upon the Department's further investigation, if certain antipollution devices otherwise required by these rules or the Pesticide and Chemigation Act, are not necessary or consequences inconsistent with the rules or act, such variances may be granted. (7-1-99)T

972. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.03.04 - RULES GOVERNING CHEMIGATION
DOCKET NO. 02-0304-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-3421, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposal will repeal the Idaho Chemigation Rules (IDAPA 02.03.04) in their entirety. This results from combining the old Chemigation Rules (IDAPA 02.03.04) and the Pesticide Use and Application Rules (IDAPA 02.03.03) into a new rule titled "Rules Governing Pesticide and Chemigation Use and Application," (IDAPA 02.03.03).

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is necessary subsequent to passage of HB 99 in the 1999 legislative session that combined the Chemigation and Pesticide laws into one law titled Idaho Pesticides and Chemigation Law, Chapter 34, Title 22, Idaho Code. This action required combining the respective rules into one.

FEE SUMMARY: The following is a specific description of the fee or change imposed or increased: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rodney Awe, Agriculture Program Manager, at (208) 332-8615.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 24th day of August 1999.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500 – Telephone / (208) 334-4623 -- Fax

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.14 - RULES GOVERNING DAIRY WASTE

DOCKET NO. 02-0414-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective September 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The amendments will adopt by reference the 1999 USDA, NRCS Conservation Practice Standard, Nutrient Management Code 590; the 1997 NRCS Agricultural Waste Management Field Handbook, Appendix 10D; and the 1999 Idaho Agricultural Pollution Abatement Plan – Nutrient Management Standard Component Practice. Additionally, the amendments define certified planner; amend the definition of non-compliance and the definition of livestock waste; incorporates nutrient management plans, nutrient management standard and appendix 10D into permit, certification and inspection procedures; include approval of construction and operation of waste management systems in permit and certification sections; and make non-substantive corrections to the rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a) Idaho Code, the governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule is necessary to protect the public health, safety, and welfare.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho Department of Agriculture, at (208) 332-8550.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 24th day of August, 1999.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0414-9901

004. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Certified Planner. A person who has completed nutrient management certification in accordance with the Nutrient Management Standard and is approved by the department. (9-1-99)T

042. Dairy Farm. A place or premise where one (1) or more milking cows, sheep or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale. (3-20-97)

023. Department. The Idaho Department of Agriculture. (3-20-97)

034. Director. The Director of the Idaho Department of Agriculture. (3-20-97)

045. Discharge Violation. A practice or facility condition which has caused an unauthorized release of livestock waste into surface, ground water, or beyond the dairy farm's property boundaries or beyond the property boundary of any facility operated by the producer. Contract manure haulers, producers and other persons who haul livestock waste beyond the producer's property boundaries are responsible for releases of livestock waste between the property boundaries of the producer and the property boundaries at the point of application. (3-19-99)

056. Farm Certification. A permit issued by the Department allowing the sale of manufacture grade milk. (3-20-97)

067. Fieldman. An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)

078. Idaho Waste Management Guidelines For Confined Feeding Operations. A 1993 publication as amended in 1997 by the Idaho Department of Health and Welfare, Division of Environmental Quality which is hereby incorporated by reference. Copies of the guidelines are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 ~~and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720.~~ (3-19-99)(9-1-99)T

089. Inspector. A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)

0910. Livestock. For the purposes of these rules the term livestock shall include bovidae, suidae, equidae and other animals that are kept on or contiguous to a dairy farm and are owned or controlled by a dairy farm. (3-19-99)

101. Livestock Waste. Manure that may also contain bedding, spilled feed, water or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes or milk, or livestock carcasses or parts thereof. (3-19-99)(9-1-99)T

142. Manufacture Grade Milk. Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (3-20-97)

123. Memorandum Of Understanding. The October 1995 Idaho Dairy Pollution Prevention Initiative Memorandum of Understanding between the Environmental Protection Agency, Division of Environmental Quality, Idaho Department of Agriculture and the Idaho Dairymen's Association. The memorandum is hereby incorporated by reference and copies of the memorandum are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Department of Administration, Office of Administrative Rules, located at 650 West State Street, Room 100, Boise, Idaho 83720. (3-20-97)(9-1-99)T

134. Non-Compliance. A practice or facility condition which will cause a discharge violation if left uncorrected or a condition on a dairy farm that does not meet the requirements of the Idaho Waste Management Guidelines for Confined Feeding Operations, the Nutrient Management Plan, Nutrient Management Standard, and Appendix 10D. ~~(3-19-99)~~(9-1-99)T

15. Natural Resource Conservation Service Agricultural Waste Management Field Handbook Appendix 10D (Appendix 10D). A 1997 publication by USDA, NRCS which is hereby incorporated by reference. Copies of this publication are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Idaho State Law Library, Supreme Court Building, 451 West State Street, Boise, Idaho 83720. (9-1-99)T

16. Nutrient Management Plan (NMP). A plan prepared in conformance with the nutrient management standard or other equally protective standard approved by the department for managing the amount, source, placement, form, and timing of the land application of nutrients and soil amendments for plant production, and for minimizing the potential for environmental degradation, particularly impairment of water quality. (9-1-99)T

17. Nutrient Management Standard (NMS). The 1999 publication by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Conservation Practice Standard, Nutrient Management Code 590, or the 1999 Idaho Agricultural Pollution Abatement Plan - Nutrient Management Standard Component Practice, which are hereby incorporated by reference. Copies of these publications are available at the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Idaho State Law Library, Supreme Court Building, 451 West State Street, Boise, Idaho 83720. (9-1-99)T

148. Permit. A permit issued by the Department allowing the sale of Grade A milk. (3-20-97)

159. Person. Any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. (3-20-97)

1620. Producer. The person who exercises control over the production of milk delivered to a plant, and who receives payment for this product. (3-20-97)

005. FINDINGS.

The Department finds that pursuant to Section 67-5226 (1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. These rules establish design, construction, operation, location, and inspection criteria for dairy waste systems on Idaho dairy farms and enable the department to implement the 1999 NRCS nutrient management standards on dairy farms to appropriately manage livestock waste. These rules also provide penalty provisions.

~~(3-20-97)~~(9-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

010. PERMITS AND CERTIFICATION.

No producer shall offer for sale or sell milk unless the producing dairy farm has been issued a Grade A permit or a Farm Certification from the Department. (3-20-97)

01. Grade A Permit. A permit issued by the Department if the dairy farm complies with the requirements of the Pasteurized Milk Ordinance and has in place and/or operates a dairy waste system consistent with the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS and Appendix 10D.

~~(3-20-97)~~(9-1-99)T

02. Farm Certification. A certification issued by the Department if the dairy farm complies with the requirements of IDAPA 02.04.05, Rules Governing Manufacture Grade Milk, and has in place and/or operates a dairy waste system consistent with the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS, and Appendix 10D.

~~(3-20-97)~~(9-1-99)T

011. WASTE SYSTEM APPROVAL.

The Department is authorized to approve the design, construction, operation, and location of dairy waste systems. These systems must conform to the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS, and Appendix 10D. ~~(3-20-97)~~(9-1-99)T

012. INSPECTIONS.

Each dairy farm shall be inspected by an inspector or fieldman at least annually or at intervals sufficient to determine that dairy waste has been ~~appropriately~~ managed to prevent an unauthorized discharge or contamination of surface and ground water. An official inspection report form as described in Section 013 will be completed at the time of inspection. ~~(3-20-97)~~(9-1-99)T

013. INSPECTION REPORT FORMS.

An inspection report form shall be established by the Department based on parameters established in the Idaho Waste Management Guidelines for Confined Feeding Operations, NMP, NMS, and Appendix 10D. Each inspection item on the form shall indicate compliance and non-compliance. ~~(3-20-97)~~(9-1-99)T

014. COMPLIANCE SCHEDULES.

01. Non-Compliance Or Discharge Violations Identified. When the Director identifies items of non-compliance or discharge violations, the deficiencies will be noted and discussed with the producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: ~~(9-1-99)T~~

~~1)a.~~ ~~w~~When corrective actions cannot be completed within thirty (30) days; ~~(9-1-99)T~~

~~2)b.~~ ~~w~~When corrective actions require significant capital investment; ~~(9-1-99)T~~

~~3)c.~~ ~~w~~When informal schedules have not been complied with. ~~(9-1-99)T~~

02. Re-Inspection. Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. A discharge violation shall be corrected immediately, when at all possible. ~~(3-20-97)~~(9-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

017. DURATION.

These rules will no longer be in effect if or when the Memorandum of Understanding defined in Subsection 004.10~~3~~ is revoked or expires. ~~(3-20-97)~~(9-1-99)T

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.05.03 - RULES FOR ADMINISTRATION OF AGRICULTURAL WATER QUALITY
COST SHARE PROGRAM FOR IDAHO

DOCKET NO. 02-0503-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 27, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty five (25) persons, a political subdivision, or an agency, not later than October 21, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These new rules set the guidelines for establishing, implementing and administering the new agricultural water quality cost-share program for Idaho. This program provides financial assistance to eligible applicants to reduce or control agricultural non-point source water pollution.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), 67-5226(1)(b), and 67-5226(1)(c), Idaho Code, the governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rules are necessary to protect the public health, safety or welfare. They are also necessary to comply with deadlines in amendments to governing law, federal programs, and as provided by S.B. 1135. Finally, the rules confer a benefit to the people of the state.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jerry Nicolescu, Administrator, Soil Conservation Commission, at (208) 332-8649.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 24th day of August, 1999.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4623 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0503-9901

IDAPA 02
TITLE 05
Chapter 03

**02.05.03 - RULES FOR ADMINISTRATION OF AGRICULTURAL WATER QUALITY
COST-SHARE PROGRAM FOR IDAHO**

000. LEGAL AUTHORITY.

This chapter is being adopted under the legal authority of Title 22, Chapter 27, Idaho Code. (7-1-99)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.05.03, "Rules for Administration of Agricultural Water Quality Cost-Share Program for Idaho". (7-1-99)T

02. Scope. These rules shall govern the procedures and requirements for establishing, implementing, and administering a state cost-share program for providing financial assistance to eligible applicants to reduce or control agricultural nonpoint source water pollution. (7-1-99)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (7-1-99)T

003. ADMINISTRATIVE APPEALS.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (7-1-99)T

004. PUBLIC RECORDS ACT.

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code. (7-1-99)T

005. POLICY.

It is the policy of the Idaho Soil Conservation Commission and Idaho State Department of Agriculture to jointly administer the Agricultural Water Quality Cost-Share Program for the purpose of conserving and enhancing the quality and value of the water resources of the State of Idaho by financing agricultural and grazing conservation improvements for eligible applicants. It is also the policy and intent of the Idaho Soil Conservation Commission to work through soil conservation districts in providing local program delivery. The Idaho Soil Conservation Commission will develop an application schedule and assign a priority ranking for cost-share contracts and projects that will most significantly improve the quality and value of the water resources of the State. (7-1-99)T

006. DEFINITIONS.

For the purpose of this chapter the following terms and phrases are used as defined herein: (7-1-99)T

01. Administrative Costs. Fund transfer costs, including allowable costs incurred in contract administration. Administrative costs also include direct and indirect personnel, travel, equipment, material, supply costs, and education outreach activities. (7-1-99)T

02. Administrator. Administrator of the Idaho Soil Conservation Commission. (7-1-99)T

03. Agriculture Project Priority List. A prioritized ranking by the Idaho Soil Conservation Commission of approved individual and project sponsored applications that support or address water quality or other environmental concerns and used as a guide for cost-share funding. (7-1-99)T

- 04. Application Cycle.** The period and schedule established by the Idaho Soil Conservation Commission for receiving and processing applications for water quality plans or project plans of operation. (7-1-99)T
- 05. Average Cost.** The reasonable cost of construction, installation, implementation, application and maintenance of a Best Management Practice (BMP) based on actual costs and current cost estimates. (7-1-99)T
- 06. Basin Advisory Group (BAG).** A regional water quality advisory group as defined in Section 39-3613, Idaho Code. (7-1-99)T
- 07. Best Management Practices (BMP).** A component practice or combination of component practices identified in the Idaho Agricultural Pollution Abatement Plan which is determined to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources. (7-1-99)T
- 08. BMP Cost.** The amount actually paid or engaged to be paid by the participant for equipment use, materials, and services for installing a BMP not to exceed actual cost, the average cost or specified maximum cost or flat rate as determined by the commission and the conservation district. If the participant uses personal resources, the BMP cost includes the value of personal labor, equipment, and materials calculated at usual, reasonable, and customary rates. Loss of income cannot be considered a BMP cost. (7-1-99)T
- 09. Commission.** The Idaho Soil Conservation Commission as defined in Section 22-2718, Idaho Code. (7-1-99)T
- 10. Conservation District.** A soil (and water) conservation district as defined in Section 22-2717, Idaho Code. (7-1-99)T
- 11. Cost-Share Rate.** The percentage of the BMP cost paid to the participant by the commission or project sponsor. The commission shall establish the cost-share rate. The cost-share rate cannot exceed ninety percent (90%) of the BMP cost. (7-1-99)T
- 12. Critical Areas Or Sources.** Areas identified by the commission based on recommendations from local entities producing significant nonpoint source pollution impacts or areas deemed necessary for protection or improvement for the attainment or support of beneficial uses. (7-1-99)T
- 13. Department.** The Idaho State Department of Agriculture as defined in Section 101, Title 22, Idaho Code. (7-1-99)T
- 14. Director.** The Director of the Idaho State Department of Agriculture. (7-1-99)T
- 15. Eligible Applicant.** Individual agricultural owner, operator, partnership, corporation, conservation district, irrigation district, canal company or other agricultural or grazing interests. (7-1-99)T
- 16. Eligible Project Areas.** Agricultural water quality project areas which include water bodies identified in the following documents which are hereby incorporated by reference: Idaho's 303(d) list, 33 U.S.C Sections 1251 et seq. (1997), ground water quality protection areas identified in the Agricultural Ground Water Quality Protection Program for Idaho, Section 39-102 et seq., Idaho Code, water bodies identified in the Idaho Agricultural Pollution Abatement Plan pursuant to Section 208 of PL 92-500 (the 1972 Clean Water Act), water bodies containing habitat for species listed as threatened or endangered under the Endangered Species Act, 16 U.S.C. Sections 1531 et seq. (1988), and water bodies of special concern. Copies of the referenced documents are available at the office of the Idaho State Department of Agriculture/ Soil Conservation Commission, 2270 Old Penitentiary Road, P.O. Box 790, Boise, Idaho 83701-0790, and the Law Library, Supreme Court Building, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051. (7-1-99)T
- 17. Flat Rate.** A method of cost-share based on a dollar-per-unit basis, used where it is difficult to estimate actual cost. (7-1-99)T

18. **Fund Transfer Cost.** The cost of transferring funds from one entity to another. (7-1-99)T
19. **Idaho Agricultural Pollution Abatement Plan.** A plan developed by the commission for the State of Idaho pursuant to Section 208 of PL 92-500 (the 1972 Clean Water Act) to manage agricultural nonpoint source pollution. (7-1-99)T
20. **Identifiable Units.** Units of an eligible BMP that, when constructed, installed, implemented or applied, can be clearly identified as a segment in the sequence of implementing the BMP. (7-1-99)T
21. **Maximum Cost.** The maximum amount approved by the Commission for BMP costs, on which cost-share rates and matching funds will be calculated. (7-1-99)T
22. **Nonpoint Source Pollution.** Water pollution that comes from varied, nonspecific, and diffuse sources and can be associated with the general land disturbing activity that causes the pollution. (7-1-99)T
23. **Participant.** Individual agricultural owner, operator, partnership, private corporation, conservation district, irrigation district, canal company, or other agricultural or grazing interest approved by the commission for cost-sharing in an eligible project area; or an individual agriculture owner or operator, partnership, or private corporation approved by a project sponsor in an eligible project area. (7-1-99)T
24. **Participant Matching Funds.** That portion of the costs provided by the participant, including in-kind services and/or out-of-pocket expenses for BMP implementation for both cost-shared and non cost-shared BMPs. Matching funds shall not include technical and financial assistance from State sources. (7-1-99)T
25. **Priority Ranking.** A process used by the commission to establish funding priorities. (7-1-99)T
26. **Program.** The Agricultural Water Quality Cost-Share Program for Idaho developed in accordance with Sections 22-2728(a)(4) and 22-2728(b), Idaho Code. (7-1-99)T
27. **Project.** The total system of planning, including water quality assessment, BMP cost-sharing, technical assistance, and administrative activities as approved and authorized by the Commission in an eligible project area. (7-1-99)T
28. **Project Agreement.** The legal document executed by the Commission and a project sponsor identifying terms and conditions by which the project sponsor will conduct an agricultural water quality project. (7-1-99)T
29. **Project Costs.** Those costs associated with planning, water quality assessment, BMP cost-sharing, technical assistance, and administrative activities for participant cost-sharing, or those costs associated with a water quality project approved by the commission in an eligible project area. (7-1-99)T
30. **Project Life Span.** The duration of the project as specified in the project plan of operation and the project agreement. The project will emphasize short-term one to five (1-5) year implementation contract periods, with a maximum of ten (10) years. (7-1-99)T
31. **Project Matching Funds.** Required project matching funds may also include the cost of technical and financial assistance provided by federal agencies and other sources. Matching funds shall not include technical and financial assistance from State sources. (7-1-99)T
32. **Project Plan Of Operation.** The document prepared by the project sponsor with concurrence of the commission setting forth the procedure and schedule for carrying out the project. The project plan of operation shall be part of the project agreement. (7-1-99)T
33. **Project Sponsor.** A conservation district, irrigation district, canal company or other agriculture or grazing interest as determined appropriate by the commission that enters into a water quality project agreement with the commission. (7-1-99)T

34. Technical Assistance Costs. Those costs incurred in the planning and/or implementation of BMPs, water quality monitoring, and the development and implementation of outreach and education activities for an approved participant's water quality plan or for an approved water quality project. (7-1-99)T

35. Technical Entity. The entity(ies) designated by the commission to provide technical assistance and quality control in BMP planning and implementation. (7-1-99)T

36. Total Maximum Daily Load (TMDL). The sum of individual point source and non-point source pollutant loads and natural background expressed in mass/time, toxicity, or other appropriate measure. Section 22-2702(5), Idaho Code. (7-1-99)T

37. TMDL Assessment. A written assessment of water quality problems and contributing pollutant sources. The TMDL assessment specifies the amount that a pollutant must be reduced to meet water quality standards, allocates pollutant load reductions among pollutant sources in a watershed and provides the basis for taking actions needed to restore a water body. (7-1-99)T

38. TMDL Schedule. The schedule which the state is required to meet in submitting TMDLs to the Environmental Protection Agency (EPA) for approval. (7-1-99)T

39. Water Quality Contract. The legal document executed by the commission or the project sponsor identifying terms and conditions between the commission or the project sponsor and an individual cost-share participant. (7-1-99)T

40. Water Quality Plan. The plan developed cooperatively by the participant, technical agency and the commission or project sponsor which identifies the critical areas and nonpoint sources of water pollution on the participant's operation and sets forth BMPs that may reduce water pollution from these critical areas and sources. (7-1-99)T

41. Watershed Advisory Group (WAG). A local watershed advisory group, as defined in Section 39-3615, Idaho Code. (7-1-99)T

007. -- 010. (RESERVED).

011. RESPONSIBILITIES.

- 01. The Commission Shall:** (7-1-99)T
- a. Administer the funds appropriated by the state for the agricultural water quality cost-share program; (7-1-99)T
 - b. Assist conservation districts with local program delivery; (7-1-99)T
 - c. Provide technical, financial, administrative, and educational outreach assistance to participants for approved water quality contracts, as funds are available; (7-1-99)T
 - d. Establish and maintain an agricultural water quality project priority list; (7-1-99)T
 - e. Develop an application process schedule and assign a priority ranking for water quality contracts and water quality projects; (7-1-99)T
 - f. Assist in determining cost-share rates for BMPs in consultation with project sponsors, appropriate agencies, and potential recipients; (7-1-99)T
 - g. Establish methods for project administration and for providing technical assistance to participants; (7-1-99)T
 - h. Review and approve or disapprove project plans of operation for project sponsors; (7-1-99)T

- i. Review and approve or disapprove water quality plans for individual participants; (7-1-99)T
- j. Enter into water quality project agreements with water quality project sponsors; (7-1-99)T
- k. Enter into water quality contracts with individual participants; (7-1-99)T
- l. Evaluate, on an ongoing basis, the effectiveness of each project and the overall program efforts in reducing agricultural and grazing nonpoint source pollution; (7-1-99)T
- m. Review project administration and financial management as required by Section 22-2718, Idaho Code; and (7-1-99)T
- n. Review and render decisions on contract modifications and violations. (7-1-99)T
- 02. The Department Shall:** (7-1-99)T
 - a. Assist the commission in administering the funds appropriated by the State for the agricultural water quality cost-share program; (7-1-99)T
 - b. Assist the commission in developing methods for project financial administration; (7-1-99)T
 - c. Provide, to the extent feasible, water quality monitoring in project areas; and (7-1-99)T
 - d. Provide legal assistance to the commission. (7-1-99)T
- 03. The Conservation Districts Shall:** (7-1-99)T
 - a. Provide assistance to the commission for local program delivery; (7-1-99)T
 - b. Establish and maintain a current five (5) year resource conservation plan containing local natural resource priorities; (7-1-99)T
 - c. Identify critical agricultural and grazing lands within eligible project areas and provide local input to the development of project plans of operation and water quality plans with assistance from the commission and technical entities; (7-1-99)T
 - d. Review plans of operation for projects occurring within the conservation district and submit a recommendation to the commission for consideration; (7-1-99)T
 - e. Approve participant installation of BMPs with assistance from the commission and the appropriate technical entity; (7-1-99)T
 - f. Assist the commission in determining cost-share rates for BMPs; and (7-1-99)T
 - g. Identify and/or receive and provide technical, financial, administrative and education outreach for water quality cost-share contracts or water quality project agreements. Solicit multiple sources and programs to provide assistance, and coordinate entities. (7-1-99)T
- 04. Participant, Acting As An Individual Shall:** (7-1-99)T
 - a. Develop with assistance from appropriate technical entities a water quality plan for the installation of BMPs and submit such plan to the commission or project sponsor as appropriate; (7-1-99)T
 - b. Install BMPs identified in the water quality plan as scheduled and according to technical standards and maintain BMPs for the life of the water quality contract or the design life of the practice, whichever is greater; (7-1-99)T

- c. Ensure that the participant matching share of the cost of the water quality contract is provided; (7-1-99)T
- d. Coordinate the water quality plan with other appropriate technical assistance and cost-share programs; and (7-1-99)T
- e. Obtain any and all permits required for BMP installation from appropriate agencies and comply with all applicable local, state, and federal laws. (7-1-99)T

05. Participant Acting As A Project Sponsor. Participant, acting as a project sponsor, shall, during the life of an approved project: (7-1-99)T

- a. Develop, with assistance from appropriate technical entities, a project plan of operation for the installation of BMPs and submit such plan to the conservation district; (7-1-99)T
- b. Review and approve or disapprove water quality plans for individual participants; (7-1-99)T
- c. Ensure BMPs identified in the project plan of operations are installed as scheduled and according to technical standards and maintained for the life of the water quality contract or the design life of the practice, whichever is greater; (7-1-99)T
- d. Ensure that the individual participant matching share of the cost of the water quality contract is provided; (7-1-99)T
- e. Coordinate the water quality cost-share project with other appropriate entities and cost-share programs; (7-1-99)T
- f. Ensure any and all permits required for BMP installation are obtained from appropriate agencies and comply with all applicable local, state and federal laws; and (7-1-99)T
- g. Develop and use a financial accounting system consistent with the financial accounting system established by the commission for this program. (7-1-99)T

012. APPLICABILITY.

- 01. Availability Of Funds.** The provisions of the program are subject to: (7-1-99)T
- a. The appropriation of funds by the legislature to the commission. (7-1-99)T
 - b. Funds accruing to the resource conservation and rangeland development account authorized in Section 22-2730, Idaho Code. (7-1-99)T

02. Obligation Of State Funds. The obligation of state funds to the participants is to be made on the basis of total water quality plan or project costs. (7-1-99)T

03. Relation To Other Cost-Share Programs. Cost-share payments made under this program may be used in conjunction with other federal, state, and local programs for cost-sharing of BMPs, provided the combined total cost-share rate for any BMP does not exceed one hundred percent (100%) of the BMP cost. (7-1-99)T

013. AGRICULTURAL PROJECT PRIORITY LIST.

01. Purpose. The purpose of the agricultural project priority list is to maintain a list and schedule of potentially fundable projects. (7-1-99)T

02. Establishment. The agricultural project priority list shall be established by the commission through an application, evaluation, and ranking process based on water quality and habitat needs and impacts,

beneficial uses, costs, economic and technical feasibility, availability of program funds, and other sources of funding. (7-1-99)T

03. Agricultural Project Priority List Modification. The agricultural project priority list shall be reviewed periodically and modified as necessary to assure up-to-date status of all water quality plans and project plans of operation and compatibility with applicable state rules and requirements. (7-1-99)T

04. Agricultural Project Bypass. An approved application that does not or will not meet criteria allowing for timely utilization of anticipated resources may be by-passed. (7-1-99)T

014. APPLICATION, EVALUATION, RANKING, AND ACCEPTANCE.

01. Applications Solicited From Applicants Within Eligible Project Area. Applications will be solicited from applicants within eligible project areas for consideration of placement on the agricultural project priority list. (7-1-99)T

02. Forms Prescribed By The Commission. Applications must be submitted on forms prescribed by the commission to the local conservation district or the commission. (7-1-99)T

a. Applications received by the local conservation district will be reviewed by the conservation district and forwarded to the commission with recommendations within thirty (30) days of receipt of the application. (7-1-99)T

b. Applications received by the commission will be reviewed by the commission with the local conservation district for recommendations within thirty (30) days of receipt of the application. (7-1-99)T

03. Commission Will Determine Suitability And Conformity Of Application. The commission will determine each application's suitability and conformity with eligible project areas. (7-1-99)T

a. Applications determined to be unsuitable, or that do not conform to eligible project areas will be returned to the applicant with a letter of explanation. (7-1-99)T

b. Applications determined to be suitable and that conform to eligible project areas will be retained for evaluation. (7-1-99)T

04. Applications Evaluated By Commission. Applications determined to be suitable and which conform to eligible project areas will be evaluated by the commission and other appropriate technical entities and interests on the basis of the following criteria: (7-1-99)T

a. 303(d) listing status; and (7-1-99)T

b. TMDL assessments; and (7-1-99)T

c. TMDL schedule; and (7-1-99)T

d. Beneficial uses; and (7-1-99)T

e. Eligible project area; and (7-1-99)T

f. Relative ability of proposed water quality plans and project plans of operations to protect and/or improve beneficial uses; and (7-1-99)T

g. Applicants readiness; and (7-1-99)T

h. Availability of technical assistance; and (7-1-99)T

i. Availability of other funding sources. (7-1-99)T

05. Agricultural Project Priority List. The commission will establish the agricultural project priority list based on the evaluation and in consideration of the recommendation of reviewing entities and interests. (7-1-99)T

06. Funding Based Upon Priority Ranking. Consideration for funding will be based upon the priority ranking determined by the commission. (7-1-99)T

07. Priority Ranking Subject To Change. The priority ranking of an application is subject to change based on the quantity and quality of current and future applications or programs or program focus. (7-1-99)T

08. Applicant Will Be Notified In Writing. The commission shall notify the applicant in writing of the initial priority ranking and funding potential and any subsequent changes in the priority ranking and funding potential within thirty (30) days from the date such action occurs. (7-1-99)T

09. Grants Based On Project Priority List Ranking And Available Funding. Grants will be offered to districts and other eligible applicants with the highest ranking based on the project priority list and available funding. (7-1-99)T

015. PROJECT AGREEMENTS.

01. Function And Content. Project agreements may be entered into between the commission and project sponsor. Project agreements shall detail the working arrangements and fund obligations of each party to the agreement. A project plan of operation shall be an integral part of a project agreement. (7-1-99)T

02. Conditions. The commission may place conditions in the project agreement to enhance the effectiveness of the project. (7-1-99)T

03. Amendment. A project agreement may be amended by mutual consent of the parties to the agreement. Such amendment shall be written and signed, and will become a part of the agreement. (7-1-99)T

016. SUSPENSION OF PROJECT AGREEMENT.

01. Order To Suspend. Work on a project or a portion or phase of a project may be suspended by written order of the commission to the project sponsor. The administrator shall give not less than ten (10) days' notice to the project sponsor of the order to suspend. (7-1-99)T

02. Existing Water Quality Contracts. Suspension does not affect properly installed and existing BMPs at the time the suspension order is issued, or the project sponsors' responsibility to make payments under such contracts unless specifically prohibited in the order to suspend. (7-1-99)T

03. Cause Of Suspension. Suspension may be required for cause, such as default by the project sponsor, including, but not limited to, failure to comply with the terms and conditions of the project agreement, or failure to comply with the agreed upon BMP standards and specifications at the time the project agreement was approved. Suspension may also be ordered due to a lack of available funding, modification of the program, or the result of advancements in technology, which render current procedures less effective. (7-1-99)T

04. Compliance With Order. Upon receipt of a suspension order, the project sponsor shall immediately comply with the order. (7-1-99)T

017. TERMINATION OF PROJECT AGREEMENT.

01. Cause Of Termination. A project agreement may be terminated for cause, which includes, but is not limited to one (1) or more of the following: (7-1-99)T

a. Failure or inability of the project sponsor to perform in accordance with the provisions of the project agreement; (7-1-99)T

b. Failure through no fault of the project sponsor to achieve an adequate level of participation as determined by the commission; (7-1-99)T

c. Other evidence that the action planned in the project agreement will not be achieved; or (7-1-99)T

d. Continuation of the project will not be of benefit to the State. (7-1-99)T

02. Commission Authorization. After the participant has been afforded an opportunity for consultation with the commission, the administrator can request authorization from the commission to terminate the project agreement in whole or in part. (7-1-99)T

03. Termination. The administrator shall, based on any of the causes identified in Subsection 017.01, issue a notice of intent to terminate the agreement. The administrator shall give not less than ten (10) days written notice to the project sponsor of intent to terminate the agreement in whole or in part. (7-1-99)T

04. Termination Notice. Termination of all or part of the project agreement may be carried out by issuance of a project agreement termination notice by the administrator. The notice shall establish the effective date of termination of the project agreement, the basis for settlement of project agreement termination costs, and the amount and date of payment of any sums due either party. (7-1-99)T

05. Project Sponsor Responsibilities. In those cases where cause for project agreement termination is based on the project sponsor's failure or inability to perform, the project sponsor shall refund to the commission unexpended project funds. (7-1-99)T

a. The project sponsor, with approval of the administrator may retain funds needed to meet existing project obligations. (7-1-99)T

b. The participant shall not make any new commitments or fund obligations, or enter into any new water quality contracts subsequent to written notice of termination. (7-1-99)T

c. Upon termination of the project agreement, the responsibility for administering existing water quality contracts in the project area shall be transferred immediately to the commission. (7-1-99)T

06. Other Causes. In those cases where cause for project agreement termination is through no fault of the project sponsor, the project sponsor shall be allowed to fulfill the obligations of its existing water quality contracts. The project sponsor shall not enter into any new water quality contracts without commission approval. (7-1-99)T

018. WATER-QUALITY CONTRACTS.

01. Function And Content. Water-quality contracts may be entered into between the commission or project sponsor and a participant. Water quality contracts shall detail the working arrangements and fund obligations of each party to the contract. A participant water quality plan shall be an integral part of the contract. (7-1-99)T

02. Conditions. The commission or project sponsor may place conditions in the water quality contract to enhance the effectiveness of the contract. (7-1-99)T

03. Amendment. A water quality contract may be amended by mutual consent of signatories to the contract. Such amendment shall be written and signed and become a part of the contract. (7-1-99)T

04. Application For Cost-Share Assistance. The commission shall ensure that a procedure exists for applying for cost-share assistance. Said procedure shall include, but not be limited to: (7-1-99)T

a. A standard application form as provided by the commission; and (7-1-99)T

b. A method of determining priorities for assistance; and (7-1-99)T

- c. A method of approving or disapproving applications for cost-share assistance. (7-1-99)T
- 05. Water Quality Plan.** The participant's water quality plan, developed by the participant with technical assistance from the appropriate technical entity, shall include but not be limited to the following; (7-1-99)T
- a. BMPs that reduce or abate agricultural nonpoint source pollution; (7-1-99)T
- b. BMPs for critical areas or pollution sources on the participant's operation; (7-1-99)T
- c. A time schedule for implementation of BMPs and cost estimates of BMP application that includes, total cost, cost-share rate, cost-share payment, and participant's share; (7-1-99)T
- d. Certification by the technical entity of the technical adequacy of the water quality plan and of subsequent modifications; (7-1-99)T
- e. Map(s), photograph(s), or illustration(s) showing location of proposed BMPs; and (7-1-99)T
- f. Technical solutions or practices recommended by the conservation district which are not currently listed as BMPs will be considered for cost-share by the commission or project sponsor. (7-1-99)T
- 06. Cost-Sharing.** (7-1-99)T
- a. The BMP cost-share rate, not to exceed ninety percent (90%) of the BMP cost, shall be determined by the commission through consultation with the local conservation district. (7-1-99)T
- b. A participant entering into a water quality contract under this program may not receive more than the total maximum amount of cost-share established by the commission under this program. (7-1-99)T
- c. Cost-sharing will not be provided for: (7-1-99)T
- i. Measures installed primarily for bringing additional land into agricultural or grazing production; or (7-1-99)T
- ii. Measures installed primarily for increasing production on existing agricultural or grazing land; or (7-1-99)T
- iii. Measures having flood protection as the primary purpose. (7-1-99)T
- 07. Relation To Other Cost-Share Programs.** Cost-share payments made under this program may be used in conjunction with other federal, state, and local programs for cost-sharing of BMPs, provided the combined total cost-share rate for any BMP does not exceed one hundred percent (100%) of the BMP cost. (7-1-99)T
- 019. COST-SHARE PAYMENTS.**
- 01. Cost-Share Payments.** Cost-share payments are to be made by the commission or project sponsor upon determination by the commission or project sponsor, local conservation district and appropriate technical entity that the BMPs or identifiable units thereof have been properly installed and meet the standards and specifications effective at the time of water quality contract approval. (7-1-99)T
- 02. Request For Cost-Share Payments.** Request for cost-share payment must be submitted to the commission or project sponsor and supported by such cost receipts as required by the commission or project sponsor. It is the participant's responsibility to request payments. (7-1-99)T
- 03. Payments.** Cost-share payments shall be made to the participant by the commission or project sponsor within thirty (30) days receipt of request. (7-1-99)T

04. Payments Pending Non-Compliance Decision. No cost-share payments shall be made pending a decision on whether non-compliance in a water quality contract has occurred or whether or not a water quality contract shall be terminated. (7-1-99)T

020. CONTRACTING.

01. Commission As Beneficiary. The commission shall be specified as an intended beneficiary of all participant contracts and shall be empowered to enforce the terms of such contracts. (7-1-99)T

02. Participation. To participate, an applicant must enter into a water quality contract that includes a water quality plan. (7-1-99)T

03. Contract Signatories. All persons or designated representatives who own, control, or share control of the land described in the water quality contract. (7-1-99)T

04. Evidence Of Control. The participant must furnish satisfactory evidence of ownership or control of the land described in the water quality contract during the contract period. (7-1-99)T

05. No Cost-Share For Previously Installed BMPs. Cost-share payments cannot be provided for any BMP that has been installed or initiated before the participant(s) and the commission or the project sponsor signs the water quality contract. (7-1-99)T

06. Water Quality Contract Requirements. The water quality contract shall include, but not be limited to, the following: (7-1-99)T

- a. Basic contract document; (7-1-99)T
- b. Special provisions as needed; (7-1-99)T
- c. Water quality plan; and (7-1-99)T
- d. Any other information deemed necessary by the commission or project sponsor. (7-1-99)T

07. BMP Standards And Specifications. A participant shall install BMPs according to the standards and specifications effective at the time the water quality plan is prepared. (7-1-99)T

08. Operation And Maintenance. The water quality contract shall require that BMPs are operated and maintained by the participant to accomplish the purpose for which they were designed at no cost to the commission or project sponsor. All BMPs installed and cost-shared under water quality contracts shall be maintained without benefit of additional cost-sharing for one (1) year or design life of the practice, whichever is greater. (7-1-99)T

09. Water Quality Contract Period. The water quality contract period shall be not less than one (1) and not more than ten (10) years. (7-1-99)T

10. Participant's Responsibilities. A participant is responsible for the following: (7-1-99)T

- a. Complying with the terms of the water quality contract; (7-1-99)T
- b. Keeping the commission informed of the participant's current mailing address; (7-1-99)T
- c. Obtaining and maintaining any required permits necessary to perform the planned work; and (7-1-99)T
- d. Installing, operating, and maintaining BMPs set forth in the water quality contract. (7-1-99)T

021. WATER QUALITY CONTRACT MODIFICATION.

01. Contract Modification Approval. Water quality contracts may be modified upon recommendation of the local conservation district and the appropriate technical entity subject to approval by the project sponsor and commission. (7-1-99)T

02. Land Transfer. In the event land under a water quality contract is transferred in whole or in part by sale or other transfer action: (7-1-99)T

a. That portion of the contract applicable to the land transferred is terminated with the original participant of such land; (7-1-99)T

b. The original participant: (7-1-99)T

i. Forfeits all rights to any future cost-share payment on the land transferred. (7-1-99)T

ii. Must refund all cost-share payments that have been made on the transferred land unless the new owner or operator becomes a party to a water quality contract, or it is determined by the commission or project sponsor that the established BMPs will provide water quality benefits for the design life of the BMP, in which case the payment may be retained. (7-1-99)T

c. A new participant may enter into a water quality contract essentially containing the original terms and conditions for the transferred land as the water quality contract with the original participant, unless otherwise modified by the project sponsor and commission. (7-1-99)T

d. Water quality contracts for both the original and new participant shall be modified to accommodate the land transfer while maintaining the integrity of the original water quality contract. (7-1-99)T

022. WATER QUALITY CONTRACT COMPLIANCE.

01. Non-Compliance. A participant shall be in non-compliance of the water quality contract for causes including but not limited to one (1) or more of the following: (7-1-99)T

a. Knowingly or negligently destroys, abandons, or modifies a BMP implemented in accordance with the water quality plan, unless prior written approval is given by the project sponsor and commission. (7-1-99)T

b. Files a request for cost-share payment for BMPs not installed or carried out, or for BMPs implemented in a manner that does not meet specifications. (7-1-99)T

02. Notice Of Non-Compliance. (7-1-99)T

a. If the project sponsor or commission determine that non-compliance has occurred which would call for a forfeiture, refund, payment adjustment, or termination, written notice thereof shall be given to the participant(s). (7-1-99)T

b. The written notice shall set forth the nature of the alleged non-compliance and shall inform the participant that an opportunity will be given to appear at a compliance review before the project sponsor or commission. A written request shall be filed by the participant for such review no later than thirty (30) days after the issuance of the notice of non-compliance. (7-1-99)T

03. Non-Compliance Review. (7-1-99)T

a. Upon a timely receipt of request for non-compliance review, the project sponsor or commission shall notify the participant in writing of the time, date, and place set for the review. (7-1-99)T

b. If the participant does not file a timely written request for review, or fails to appear at the review so requested, the participant shall have no further right to a review before the project sponsor or commission. (7-1-99)T

04. Notification Of Review Determination. The project sponsor or commission shall notify the

participant in writing of the determination. (7-1-99)T

05. Forfeiture Of Further Cost-Share Payments. A participant determined by the project sponsor or commission to be in non-compliance of the water quality contract shall forfeit all rights to further cost-share payments under the water quality contract. (7-1-99)T

06. Refund Of Cost-Share Payments. A participant determined by the project sponsor or commission to be in non-compliance of the water quality contract shall make refunds of cost-share payments received under the water quality contract or accept payment adjustments in the contract. (7-1-99)T

07. Appeal Of Review Determination. Appeal of the review determination may be made by any participant adversely affected by the determination in accordance with Title 67, Chapter 52, Idaho Code. (7-1-99)T

a. A participant determined to be in non-compliance by a project sponsor may request, in writing, review by the commission within thirty (30) days of issuance of notification of non-compliance determination. (7-1-99)T

b. All appeals to the commission shall be conducted in accordance with Title 67, Chapter 52, Idaho Code. (7-1-99)T

023. QUALITY CONTROL.

01. Rights Of Access. The commission or project sponsor shall have the right of access, at reasonable times and upon proper notification, to land under contract, and the right to access and examine any contract and cost-share records. Right of access is limited to furnishing technical assistance and to inspecting work performed under the contract. (7-1-99)T

02. BMP Inspections. Spot checks to ensure proper BMP design installation and maintenance shall be conducted in a manner consistent with the policies and procedures of the commission or project sponsor and appropriate technical entities. (7-1-99)T

03. Inspection Report. The participant shall report the findings of BMP inspections annually to the commission or project sponsor. (7-1-99)T

024. PROJECT AND PROGRAM EVALUATIONS.

01. Purpose. The purpose of project and program evaluations is to assess the effectiveness of the various projects and the overall program in reducing water pollution from agricultural and grazing nonpoint sources. (7-1-99)T

02. Project Evaluation. Project evaluations shall be conducted annually by the commission, project sponsor, appropriate technical entity, and the participant to determine BMP implementation progress and resulting improvements in water quality. (7-1-99)T

03. Project Evaluation Criteria. Criteria for the evaluation of project effectiveness shall include, but not be limited to: (7-1-99)T

- a. Achievement of project goals for reduction of pollutant loadings; (7-1-99)T
- b. Achievement of a minimum level of participation; (7-1-99)T
- c. Achievement of project goals for installation of BMPs; (7-1-99)T
- d. Project's contribution toward meeting state water quality goals; (7-1-99)T
- e. Project's contribution toward implementing the Idaho Agricultural Pollution Abatement Plan; and (7-1-99)T

f. Prudent use and management of public funds. (7-1-99)T

04. Agricultural Water Quality Cost-Share Program Evaluation. Program evaluations shall be conducted annually by the commission, conservation districts, technical entities, and participants to determine the overall effectiveness of the program in improving water quality. (7-1-99)T

025. INCLUSIVE GENDER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice-versa, where appropriate. (7-1-99)T

026. -- 999. (RESERVED).

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
DOCKET NO. 05-0101-9801

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Sections 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule, previously adopted under this docket. The action is authorized pursuant to Section 20-504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance and purpose of the rescission of the temporary rule:

This rule is being replaced by a new Temporary and Proposed Rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Nancy S. Bishop at (208) 334-5100, Ext. 384.

DATED this 25th day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
PO Box 83720
Boise ID 83720-0285
Phone: (208) 334-5100, Ext. 384
FAX: (208) 334-5120

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
DOCKET NO. 05-0101- 9801
NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 20-504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

This rule is being replaced by new Temporary and Proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact:

Nancy S. Bishop, Deputy Attorney General, 334-5100, Ext. 384

DATED this 25th day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
400 North 10th Street, 2nd Floor
Boise ID 83720-0285
Phone: (208) 334-5100, Ext. 384
FAX: (208) 334-5120

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
DOCKET NO. 05-0101-9802
NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Sections 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule, previously adopted under this docket. The action is authorized pursuant to Section 20-504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance and purpose of the rescission of the temporary rule:

This rule is being replaced by a new Temporary and Proposed Rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Nancy S. Bishop at (208) 334-5100, Ext. 384.

DATED this 25th day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
PO Box 83720
Boise ID 83720-0285
Phone: (208) 334-5100, Ext. 384
FAX: (208) 334-5120

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
DOCKET NO. 05-0101- 9802
NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 20-504, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

This rule is being replaced by new Temporary and Proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact:

Nancy S. Bishop, Deputy Attorney General, 334-5100, Ext. 384

DATED this 25th day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
400 North 10th Street, 2nd Floor
Boise ID 83720-0285
Phone: (208) 334-5100, Ext. 384
FAX: (208) 334-5120

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
DOCKET NO. 05-0101-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules repealing this chapter, and proposed regular rulemaking procedures have been initiated to repeal these rules. The action is authorized pursuant to Section 20-504, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested, in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance and purpose of the proposed rulemaking:

The rules are being repealed and have been rewritten and repromulgated under Docket No. 05-0101-9902 following this notice.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rules repeal is appropriate for the following reasons: To allow new temporary rules to define minimum safety and care standards for staff secure facilities housing juvenile offenders.

FEE SUMMARY: There is no fee or charge imposed by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because input is being solicited and received by other means.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Nancy S. Bishop at (208) 334-5100, Ext. 384.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
PO Box 83720
Boise ID 83720-0285

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS AND
STANDARDS FOR PRIVATE CONTRACT PROVIDERS

DOCKET NO. 05-0101-9902

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 20-504, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested, in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance and purpose of the proposed rulemaking:

It is necessary to rewrite and repromulgate these rules based on input from affected parties. This will occur simultaneously with repeal of the former IDAPA 05.01.01, "Rules of the Department of Juvenile Corrections," vacation of old proposed rulemaking and rescission of temporary rules now in effect. These rules will define the standard operating procedures for private contract providers with the Department.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To define critical standards of care, safety and education for contract providers who have physical custody of juveniles committed to the Department.

FEE SUMMARY: There is no fee or charge imposed by this rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because input was solicited and received from affected parties through other means.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Nancy S. Bishop at (208) 334-5100, Ext. 384.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 23rd day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
PO Box 83720
Boise ID 83720-0285

THE FOLLOWING IS THE TEXT OF DOCKET NO. 05-0101-9902

IDAPA 05
TITLE 01
Chapter 01

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

**05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
AND STANDARDS FOR PRIVATE CONTRACT PROVIDERS**

000. LEGAL AUTHORITY.

01. Section 20-504(2), Idaho Code. Pursuant to Section 20-504(2), Idaho Code, the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention facilities based upon such standards. (10-1-99)T

02. Section 20-504(9), Idaho Code. Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. (10-1-99)T

03. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. (10-1-99)T

04. Section 20-504(14), Idaho Code. Pursuant to Section 20-504(14), Idaho Code, the department, in cooperation with the courts and the counties, shall establish uniform standards, criteria and operating procedures for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers. (10-1-99)T

05. Section 20-531(4), Idaho Code. Pursuant to Section 20-531(4), Idaho Code, the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. (10-1-99)T

06. Section 20-545(1), Idaho Code. Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act. (10-1-99)T

07. Interstate Compact On Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. (10-1-99)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.01, "Rules of the Idaho Department of Juvenile Corrections and Standards for Private Contract Providers," IDAPA 05, Title 01, Chapter 01. (10-1-99)T

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. (10-1-99)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the

interpretations of these rules. The document is available for public inspection and copying at cost at the Department of Juvenile Corrections, 400 N. 10th (second floor), P.O. Box 83720, Boise, Idaho, 83720-0285. (10-1-99)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (10-1-99)T

004. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: (10-1-99)T

- 01. Adult.** A person eighteen (18) years of age or older. (10-1-99)T
- 02. Body Cavity Search.** The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical authority. (10-1-99)T
- 03. Chemical Agent.** An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (10-1-99)T
- 04. Classification.** A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources. (10-1-99)T
- 05. Contact Visiting.** A program that permits juveniles to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (10-1-99)T
- 06. Contraband.** Any item not issued or authorized by the facility. (10-1-99)T
- 07. Control Center.** The central point within a facility or institution where activities are monitored and controlled. (10-1-99)T
- 08. Commit.** Commit means to transfer legal custody. (10-1-99)T
- 09. Community-Based Program.** An in-home detention program or a non secure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county. (10-1-99)T
- 10. Corporal Punishment.** Any act of inflicting punishment directly on the body, causing pain or injury. (10-1-99)T
- 11. Court.** Means district court or magistrate's division thereof. (10-1-99)T
- 12. Day Room/Multi-Purpose Room.** That portion of the housing unit used for varied juvenile activities which is separate and distinct from the sleeping rooms. (10-1-99)T
- 13. Detention.** Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (10-1-99)T
- 14. Detention Center.** A facility established pursuant to Sections 20-517 and 20-518, Idaho Code. (10-1-99)T
- 15. Detention Facility.** Accommodations for detaining a juvenile for the temporary placement of juveniles who require secure custody for their own or the community's protection in physical restricting facilities. (10-1-99)T

- 16. Direct Care Personnel.** Any care staff member charged with day to day supervision of juveniles housed in a juvenile detention facility. (10-1-99)T
- 17. Director.** The Director of the Department of Juvenile Corrections. (10-1-99)T
- 18. Diversion.** The utilization of local community resources, churches, counseling for the juvenile and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court. (10-1-99)T
- 19. Department.** The Idaho Department of Juvenile Corrections. (10-1-99)T
- 20. Emergency Care.** Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile population by the medical staff, physician, other appropriately trained staff, local ambulance services and/or outside hospital emergency rooms. (10-1-99)T
- 21. Emergency Plans.** Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (10-1-99)T
- 22. Existing Facility.** Any juvenile detention facility in use, or for which bids have been let, prior to the effective date of these Rules. (10-1-99)T
- 23. Facility Records.** Information regarding the maintenance and operation of the facility including but not limited to correspondence, memorandums, complaints regarding the facility, daily activity logs, security and fire safety checks, head counts, medical records, health inspection records, and safety inspection records, use of physical force records and use of restraints records, employee training and certification for use of security equipment. (10-1-99)T
- 24. Health Authority.** The physician, health administrator, or agency responsible for the provision of health care services at an institution or system of institutions; the responsible physician may be the health authority. (10-1-99)T
- 25. Health-Trained Employee.** A person who provides assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and/or reviewing screening forms for needed follow-up; preparing juveniles and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments. (10-1-99)T
- 26. Housing Unit.** The total living area available to a group or classification of juveniles in a detention facility. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/multi-purpose room. (10-1-99)T
- 27. Incident Report.** A written document reporting an unusual occurrence or special event such as the discovery of contraband, use of physical force, use of chemical agents, discharge of firearms, etc., and action taken including notation of strip and cavity searches. (10-1-99)T
- 28. Judge.** A district judge or a magistrate. (10-1-99)T
- 29. Juvenile.** A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (10-1-99)T
- 30. Juvenile Offender.** A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult. (10-1-99)T
- 31. Juvenile Records.** Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court

orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. (10-1-99)T

32. Legal Custody. The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. (10-1-99)T

33. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. (10-1-99)T

34. Medical Employee. A certified person such as nurse, physician's assistant, emergency medical technician who works under the supervision and authority of the Health Authority consistent with their respective levels of training, education and experience. (10-1-99)T

35. Medical Records. Separate records of medical examinations and diagnoses maintained by the Health Authority. (10-1-99)T

36. Medical Screening. A system of structured observation/initial health assessment of newly arrived juveniles. May be performed by a Medical Employee or by a Health Trained Employee. (10-1-99)T

37. New Facility. Any facility for which bids are let for construction after the effective date of these Rules. (10-1-99)T

38. Non-Contact Visiting. A program that restricts juveniles from having physical contact with visitors. Physical barriers usually separate the juvenile from the visitors with screens and/or glass. Voice communications between the parties are typically accomplished with phones or speakers. (10-1-99)T

39. Observation And Assessment Program. Any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment. (10-1-99)T

40. Pat Search. The touching or feeling of a subject's clothed body to detect contraband. (10-1-99)T

41. Perimeter Security. A system that controls ingress and egress to the interior of a facility or institution. The system may include electronic devices, walls, fence, patrols and/or towers. (10-1-99)T

42. Perimeter Security Check. Physical inspection of the perimeter of the facility performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the facility and adjacent containment fence or areas as designated by facility policy and procedures. (10-1-99)T

43. Petition For Exemption. A formal written document addressed to the Director of the Department of Juvenile Corrections requesting exception from a Detention Facility Standard. The Petition for Exemption must contain written justification why the petitioner should be relieved from enforcement of specific detention standard(s). (10-1-99)T

44. Physical Assessment. An evaluation of a patient's current physical condition and medical histories conducted by, or under the supervision of, the Health Authority. (10-1-99)T

45. Policy And Procedures. Standard operating strategies and processes developed by the administrative authority governing detention facility operations. (10-1-99)T

a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the personnel must operate. (10-1-99)T

b. Procedure is the detailed and sequential action which must be executed to ensure that policy is

implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy.

(10-1-99)T

46. Rated Capacity. The actual number of juveniles which may be housed in a particular room, housing unit, or facility based upon available square footage, sanitation fixtures, and other physical plant features specified in these rules.

(10-1-99)T

47. Renovation. The alteration of the structure of any existing juvenile detention facility, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the physical layout of essential areas within the facility or reconstruction of the existing structure, areas, or interior features.

(10-1-99)T

48. Restraints. Devices used to restrict physical activity.

(10-1-99)T

49. Rule Infraction. A violation of detention center rules of conduct and/or Policies and Procedure as governed by facility Policy and Procedures.

(10-1-99)T

50. Safety Equipment. Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms.

(10-1-99)T

51. Security Devices. Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain facility security.

(10-1-99)T

52. Secure Facility. Any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(10-1-99)T

53. Secure Perimeter. The outer portions of a facility that provide for secure confinement of facility residents.

(10-1-99)T

54. Staffing Plan. A documented schedule which includes staffing of direct care personnel, staffing ratios, resident activities, and the certification level of staff.

(10-1-99)T

55. Strip Search. An examination of a resident's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the individual's clothing while such is not being worn.

(10-1-99)T

56. Use Of Physical Force. Physical force used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes.

(10-1-99)T

57. Volunteer. A person who donates his time and effort to enhance the activities of the program. Volunteers may be classified into two categories:

(10-1-99)T

a. **Direct care volunteer.** A person serving as unpaid direct care personnel, serving in the same capacity as an employee of the juvenile detention center, having direct and unsupervised contact with juveniles.

(10-1-99)T

b. **Program Volunteer.** An unpaid volunteer, program or organization serving in, or as a program of the juvenile detention center, such as Alcoholics Anonymous, etc., which is constantly supervised by Direct Care Personnel of the juvenile detention center.

(10-1-99)T

58. Work Program. A public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

(10-1-99)T

011. -- 099. (RESERVED).

100. INITIATION OF SERVICES.

Juveniles are committed to the department under the provisions of the Juvenile Corrections Act. (Sections 20-501 through 20-547, Idaho Code) and the Interstate Compact on Juveniles (Sections 16-1901 through 16-1910, Idaho Code). (10-1-99)T

101. SERVICES TO BE PROVIDED.

Services are based on a legal rather than a financial criteria, and are provided to all juveniles committed by courts regardless of individual or family income. Services which may be provided include: (10-1-99)T

01. Diagnostic Work. Diagnostic work necessary to develop goals and treatment plans. (10-1-99)T

02. Counseling And Treatment. Counseling and treatment necessary to remediate the juvenile presenting problem. (10-1-99)T

03. Placement. Placement consistent with identified treatment needs. (10-1-99)T

04. Periodic Reviews. All committed juveniles will be contacted at least monthly, and notes regarding services provided will be entered in the case records on at least a monthly basis. A semiannual case review will be conducted for each child committed to the Department under the provisions of the Juvenile Corrections Act who is placed outside their home. (10-1-99)T

05. Re-Evaluation And Reports. All juveniles committed to the Department will be reassessed at intervals not exceeding one (1) year. Reports of periodic reassessments made pursuant to this section shall be filed with the court from which the juvenile was committed. (10-1-99)T

102. -- 198. (RESERVED).

199. RELEASE FROM CUSTODY.

01. Release. Juveniles may be released to their own home, to a residential community-based program, to a nonresidential community based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on probation until the probation is terminated by the court. (10-1-99)T

02. Notification. When the department is considering release of a juvenile offender committed to the department for confinement, the department shall notify the prosecuting attorney of the county from which the juvenile offender was committed to confinement, the judge whose order caused the juvenile offender to be committed to confinement and the victim of the juvenile offender's unlawful conduct. (10-1-99)T

200. STANDARD OPERATING PROCEDURES FOR CONTRACT PROVIDERS.

The Idaho Department of Juvenile Corrections or its designee shall have the authority to visit and inspect all contract provider facilities to access such facilities' compliance with these rules. (10-1-99)T

201. PURPOSE.

The condition and appearance of physical surroundings in which juveniles are placed have a positive or negative influence on the behavior of juveniles participating in the program. It shall be the responsibility of the contractor to see that all the buildings used to house, feed, supervise or instruct juveniles are structurally sound, adequately maintained and sanitary at all times. (10-1-99)T

202. COMPLIANCE WITH STATE AND LOCAL CODES AND ORDINANCES.

01. Local Building Code. The facility shall be in compliance with all state and local building codes certified at the time of construction or building purchase and shall continue to conform through any remodeling or new construction. (10-1-99)T

02. Zoning Laws. The contractor shall provide evidence that the facility meets all applicable zoning laws, regulations and neighborhood restrictions. (10-1-99)T

03. Life Safety Codes. The facility shall be in compliance with all state and local life safety codes as well as all local and state health and sanitation standards and shall make all documentation accessible to the Department of Juvenile Corrections upon request. (10-1-99)T

203. COMPLIANCE WITH CHILD CARE LICENSURE REQUIREMENTS.

The contractor agrees to maintain compliance with all relevant state child care licensure requirements and standards. This specifically includes those standards requiring all facility operators, owners, and all assigned staff and volunteers to submit fingerprints for completion of criminal history background checks. The contractor agrees that any and all subcontractors and consultants are also subject to this section. (10-1-99)T

204. LOCATION OF FACILITY.

01. Site. A facility should be located on a site which is conducive to the purposes and goals of its program. The design of the facility shall promote the purposes of the program and provide an environment consistent with the functions of the program. (10-1-99)T

02. Site Approval. If the program has been established or is seeking to exclusively serve juveniles referred by the Department of Juvenile Corrections, the Department reserves the right to approve the site, design and proposed floor plan for any new or relocated facility. The contractor will be asked to produce: (10-1-99)T

a. Evidence that the site location of the facility will be appropriate to juveniles to be served in terms of individual needs, program goals and access to service facilities. (10-1-99)T

b. A description of the way in which the facility physically harmonizes with the neighborhood in which it is located considering such issues as scale, appearance, density and population. (10-1-99)T

205. ACCESSIBILITY, GENERAL SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Reasonable Access. The program buildings, parking lots and other facilities shall provide reasonable access as required by the Americans with Disabilities Act and other federal and state laws and regulations. (10-1-99)T

02. Maintenance. The contractor shall ensure that all structures are maintained in good repair and are free from hazards to health and safety. The facility grounds shall also be maintained and shall be free from any hazard to health and safety. (10-1-99)T

03. Written Plan. The program shall have a written plan for preventive and ongoing maintenance of the facility. (10-1-99)T

04. Safety Program. Each contractor shall have a designated staff member who is responsible for the safety program at the facility. This individual shall conduct routine inspections of the facility monthly, with copies of the inspections kept on file for review by the DJC facility monitors, to identify: (10-1-99)T

a. Fire safety; (10-1-99)T

b. Existing hazards; (10-1-99)T

c. Potential hazards; and (10-1-99)T

d. The corrective action that should be taken to address these hazards. (10-1-99)T

206. VEHICLES.

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair and

meet the Department's requirements for insurance coverage. (10-1-99)T

02. Compliance With Applicable Laws. All vehicles must possess current state licenses and shall comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. (10-1-99)T

03. Maintenance And Equipment Check List. The contractor shall have a vehicle maintenance and equipment check list, which shall include a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems (i.e., brakes, head lights) shall be made immediately. All worn or missing critical equipment shall be replaced immediately (i.e., tires, jacks, seat belts). (10-1-99)T

207. DRIVERS.

All drivers of vehicles must possess a valid Idaho driver's license and the proper licenses required by state law for the type of motor vehicle operated. All operators' driving records must be checked through the Office of Motor Vehicles to assess their suitability to transport juveniles. If the driving record is checked by the insurance agency, which reports acceptability to the contractor, this is sufficient to meet the terms of this section. Appropriate documentation shall be kept in personnel files. (10-1-99)T

208. CONSULTANTS.

01. Additional Services. All consultants employed by the contractor are subject to the provisions of Section VII of the Standard Contract. (10-1-99)T

02. Service Provider. Consultants may provide consultation to program staff regarding treatment planning, staff training, program development, and individual or family services. Consultants may also provide individual, group or family services to the clients of the program, as part of the overall individual service plan. (10-1-99)T

209. SUBCONTRACTORS.

01. Indemnification. While it is not anticipated that the contractor will subcontract any specific services of the contract, should subcontracting be approved according to the provisions of Section VI of the Standard Contract, the contractor agrees to assume responsibility for the performance of any subcontractor. (10-1-99)T

02. Subcontractors. The contractor shall maintain a list of subcontracted service providers and their qualifications. Documentation of services provided by subcontractors shall include the units of service and cost. (10-1-99)T

210. EMERGENCY PROCEDURES.

The Contractor will utilize and maintain a current emergency procedure manual which shall include, at minimum, procedures pertaining to: (10-1-99)T

- 01. Fire Safety And Escape.** (10-1-99)T
- 02. Emergency Medical Care.** (10-1-99)T
- 03. Notification And Filing Charge On Escape.** (10-1-99)T
- 04. Incidents Of Violence Within The Facility.** (10-1-99)T
- 05. Suicide Prevention.** (10-1-99)T
- 06. Child Abuse Reporting.** (10-1-99)T
- 07. Sexual Abuse Disclosures.** (10-1-99)T

211. EMERGENCY REPORTING REQUIREMENTS.

The contractor shall immediately notify the Department's Juvenile Management Center by telephone (not FAX), the probation officer and the youth's parents with a written incident report transmitted to JMC within twenty-four (24) hours, unless notification to the youth's parents would endanger the youth, in the event that any of the following changes occur: (10-1-99)T

01. Escapes. (10-1-99)T

02. Significant Change In Treatment Plan. (10-1-99)T

03. Significant Medical Difficulties. (10-1-99)T

04. Major Incidents. Incidents involving suicide or attempted suicide; rape; felony crime committed by the youth; sexual incidents involving youth in residence; placement in higher level of care; serious injury to the youth; or other major incidents. (10-1-99)T

05. Abuse And Neglect. Allegations of abuse and neglect shall also be reported to the Licensing Agency and/or law enforcement. (10-1-99)T

212. DOCUMENTATION.

01. Juvenile Files. The contractor shall maintain individual files on all youth in residence which shall include documentation on services provided under the terms of the Contract. (10-1-99)T

02. Contractor Files. The contractor shall document and retain documentation of all information related to the following: (10-1-99)T

a. Consultation provided at the facility; (10-1-99)T

b. Training provided to staff; (10-1-99)T

c. All alleged instances of child abuse; (10-1-99)T

d. Medical care provided to youth, including initial physical examination and assessment; (10-1-99)T

e. Fiscal and program audits or reviews, including corrective actions required and taken; and (10-1-99)T

f. Reports of sexual abuse disclosures to Health and Welfare and/or law enforcement. (10-1-99)T

213. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the Department must possess all licenses and/or certifications required by statute or by Department of Health and Welfare, Division of Family and Community Services, as applicable. (10-1-99)T

02. Education And/Or Experience. All individuals providing services must be qualified to do so by educational background and experience. In addition, certain program and professional care givers must meet specific minimum standards for education and/or experience. These standards shall constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the Department. (10-1-99)T

214. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Case Manager. An individual to whom the juvenile is assigned at admission who assists the juvenile with his individualized program plan, evaluates the juvenile and maintains his case record, presents the case in staffing, communicates with appropriate individuals regarding the juvenile, and prepares written communications

including discharge reports. The Case Manager may also serve as the Counselor. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in the social sciences or a related field. (Providers with case management staff that do not meet this qualification must ensure that those staff are supervised directly by an individual who meets the qualifications. The provider will be expected to demonstrate continuing efforts to qualify existing staff). (10-1-99)T

02. Counselor. An individual responsible for developing and monitoring personal program plans for juveniles under his supervision, providing counseling regarding the implementation of those plans and coordinating with and for parents of juveniles. He also communicates with community agencies that the juveniles are using. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in the social sciences or a related field. (10-1-99)T

03. Juvenile Care Worker/Direct Care Worker. An individual responsible for supervising the juveniles' day-to-day living activities and performing such duties as preparing nutritious meals, supervising and training juveniles in basic living skills, and providing some community transportation. He must have a high school diploma or its equivalent. (10-1-99)T

04. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field or have a high school diploma and two (2) years related experience in providing recreational services to juveniles. (10-1-99)T

05. Social Worker. An individual who is responsible for the assessment of treatment needs and the provision and monitoring of therapeutic/rehabilitative treatment services to juveniles participating in a treatment program. Individuals providing this function must possess at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology or counseling and state certification. (10-1-99)T

06. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching certificate in the state where the services are being provided and in the appropriate instructional field. (10-1-99)T

07. Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social/familial deficits or dysfunctions presented by the juvenile, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. At a minimum, the individual must possess a medical degree in psychiatry, be a Board Certified Social Worker, or possess a master's degree in social work, psychology or counseling. Although a license is not required by persons who meet these minimum education standards, no therapist shall have had a license in any of the above fields revoked or suspended for a serious disciplinary violation. (10-1-99)T

215. PROGRAM STAFFING REQUIREMENTS.

The contractor shall ensure that an adequate number of qualified staff are present at all times to supervise juveniles and provide for their health, safety and well-being. Staffing patterns should provide maximum case manager availability to juveniles at times when they are in the facility and should provide consistency and stability so that they know the roles of each staff member. (10-1-99)T

216. TRAINING AND STAFF DEVELOPMENT.

A well planned and executed training program increases the competency and performance of staff and volunteers and establishes a common understanding of a program's objectives, policies and rules. Staff should have a minimum of forty (40) hours of training per calendar year following the first year of employment. In the first year of employment with contractor fifty-six (56) hours of training is mandatory. In addition to the fifty-six (56) hours of first year training, newly hired staff with one year or more of direct child care experience with "at risk" youth are also required to complete a minimum of forty (40) hours of "mentoring" and newly hired staff with less than one year of direct child care experience with "at risk" youth are also required to complete a minimum of eighty (80) hours of on-the-job "mentoring" (internship) prior to being assigned sole responsibility for supervision of youth as outlined in Section 218. (10-1-99)T

217. GENERAL REQUIREMENTS FOR TRAINING PROGRAMS.

01. Program Plan. Training for staff and volunteers shall be conducted in accordance with a written program plan for staff development and coordinated by a designated staff member at the supervisory level. All training programs shall be presented by persons that are qualified in areas in which they are conducting training. Training programs should define requirements for completion and make provisions for attendance recording, a system to recognize completions, and an evaluation of the training. They should also identify areas requiring annual re-certification and meet those needs. (10-1-99)T

02. Mandatory Inclusions. Training programs shall do the following: (10-1-99)T

- a. Include professional development and skills development for all personnel and volunteers; (10-1-99)T
- b. Meet the needs of each staff member's respective job classification and be pertinent to his individual work with juveniles; (10-1-99)T
- c. Where available, involve the use of community resources; and (10-1-99)T
- d. Include in-service training in existing practices, procedures and skills necessary for working with juveniles. (10-1-99)T

218. PRE-SERVICE ORIENTATION.

01. Mandatory Pre-Service Topics. Pre-service orientation for all staff shall include, but not be limited to, program goals and objectives, program rules and regulations, job responsibilities, personnel policies, juvenile supervision, report writing, instruction in safety and emergency procedures, confidentiality issues, juvenile rights and grievance procedure, standard operating procedures, and communicable diseases. (10-1-99)T

02. Mandatory Direct Juvenile Care Topics. In addition to meeting the pre-service requirements listed above, individuals employed as direct child care staff who do not possess at least one (1) year of direct child care experience with "at risk" youth must complete a minimum eighty (80) hour internship. During this period, they shall be under the supervision of an experienced child care worker or direct care supervisor. They shall not be assigned sole responsibility for the supervision of juveniles until they can demonstrate, and it has been documented, that they have achieved basic child care/supervision competencies as defined above and have successfully completed any additional criteria set by the contractor. (10-1-99)T

219. IN-SERVICE TRAINING REQUIREMENTS FOR DIRECT CARE WORKERS, COUNSELORS AND CASE MANAGERS.

All juvenile care workers, supervisors, counselors and case managers (including all volunteers in these positions) shall receive a total of fifty-six (56) hours of training during the first year of employment. Training course contents must include at least the following: (10-1-99)T

- 01. Principles And Practices Of Juvenile Care And Supervision.** (10-1-99)T
- 02. Program Procedures And Programmatic Goals.** (10-1-99)T
- 03. Juvenile Rights.** (10-1-99)T
- 04. Procedures And Legal Requirements Concerning The Reporting Of Abuse And Critical Incidents.** (10-1-99)T
- 05. Behavioral Observation, Adolescent Psychology And Child Growth And Development.** (10-1-99)T
- 06. Basic Counseling Skills.** (10-1-99)T

- 07. **Handling Of Violent Juveniles** (Use Of Force/Crisis Intervention). (10-1-99)T
- 08. **Significant Legal Issues** (i.e., Juvenile Corrections Act). (10-1-99)T
- 09. **Security Procedures** (Key Control, Searches, Contraband). (10-1-99)T
- 10. **Socio-Cultural Lifestyle Of Juveniles.** (10-1-99)T
- 11. **Report Writing.** (10-1-99)T
- 12. **Emergency Procedures/First Aid/CPR.** (10-1-99)T
- 13. **Standard Operating Procedures.** (10-1-99)T
- 14. **Communicable Diseases.** (10-1-99)T

220. DOCUMENTATION OF TRAINING.

01. Staff Training Records. Staff training records shall be kept by a designated staff person. Separate training records shall be established for each staff member and volunteer and shall include name, assignment category (position, type of employee full-time/part-time/ volunteer), employment beginning date, annual training hours required, and a current chronological listing of all training completed. (10-1-99)T

02. Training Programs. Training programs must be documented by date and times training was conducted, topic of the training session, name and qualifications of the instructor, and a roster with signatures of all participants. (10-1-99)T

221. VOLUNTEERS.

Programs serving juveniles should consider soliciting the involvement of volunteers to enhance and expand their services, however, volunteers shall be recruited to supplement and enrich a program, not to substitute for the activities and functions of facility staff. (10-1-99)T

222. VOLUNTEER PLAN.

01. Written Plan. Programs that utilize volunteers regularly shall have a written plan that includes stipulations for their use and training. (10-1-99)T

02. Recruitment. Recruiting of volunteers is conducted by the chief administrative officer or his designee. Recruitment is encouraged from all cultural and socio-economic segments of the community. (10-1-99)T

03. Volunteer Requirements: (10-1-99)T

a. Volunteers must be at least eighteen (18) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position; (10-1-99)T

b. Volunteers must complete an application for the position and are suited for the position to which they are assigned; (10-1-99)T

c. Volunteers must agree in writing to abide by all program policies; (10-1-99)T

d. Volunteers who perform professional services must be licensed or certified as required by state statute or regulation; (10-1-99)T

e. Written job descriptions must be provided for each volunteer position; and (10-1-99)T

f. Volunteers must agree to background and criminal record checks as prescribed by state statutes. (10-1-99)T

04. Supervision. Volunteers will be supervised by a paid employee of the program. This individual shall coordinate and direct the activities of the volunteer. Volunteer performance shall be evaluated periodically and evidence of this evaluation be made part of the personnel record of the volunteer. (10-1-99)T

05. Termination. There will be a procedure established for the termination of volunteers when substantial reasons for doing so exist. (10-1-99)T

223. CRIMINAL BACKGROUND CHECKS.

01. Procedure. All contractors providing services to the Department shall ensure that all employees and volunteers, as required by statute, have submitted the required fingerprint cards and releases to the Department of Law Enforcement/Bureau of Criminal Identification. Documentation of appropriate requests and responses should be kept in the employee personnel records. (10-1-99)T

02. Serious Crimes. Persons convicted of the following crimes shall not be employed by the contractor. For the purposes of this section, a withheld judgement shall be considered a conviction: (10-1-99)T

- a. First degree murder, Section 18-4001, Idaho Code; (10-1-99)T
- b. Second degree murder, Sections 18-4003 and 18-4015, Idaho Code; (10-1-99)T
- c. Manslaughter, Section 18-4006, Idaho Code; (10-1-99)T
- d. Rape, Sections 18-6101 and 18-6108, Idaho Code; (10-1-99)T
- e. Aggravated assault, Sections 18-905 and 18-907, Idaho Code; (10-1-99)T
- f. Assault/battery with intent to commit a serious felony, Sections 18-909 and 18-911, Idaho Code; (10-1-99)T
- g. Domestic assault/battery, Section 18-918, Idaho Code; (10-1-99)T
- h. Kidnapping, Sections 18-4501 and 18-4506, Idaho Code; (10-1-99)T
- i. Desertion or non-support of wife or children, Section 18-401, Idaho Code; (10-1-99)T
- j. Prostitution, Sections 18-5613 and 18-5614, Idaho Code; (10-1-99)T
- k. Inducing person to prostitution, Sections 18-5609 through 18-5611, Idaho Code; (10-1-99)T
- l. Injury to children, Section 18-1501, Idaho Code; (10-1-99)T
- m. Sexual abuse of a child under age 16, Section 18-1506, Idaho Code; (10-1-99)T
- n. Lewd conduct with a minor child under age 16, Section 18-1508, Idaho Code; (10-1-99)T
- o. Sexual battery of a minor child, Sections 18-1508 and 18-1508-A, Idaho Code; (10-1-99)T
- p. Crimes against nature, Sections 18-6605 and 18-6606, Idaho Code; (10-1-99)T
- q. Incest, Section 18-6602, Idaho Code; (10-1-99)T
- r. Forcible sexual penetration by use of a foreign object, Section 18-6608, Idaho Code; (10-1-99)T
- s. Child pornography, Sections 18-1506 and 18-1507, Idaho Code; (10-1-99)T

- t. Trafficking in marijuana, Section 37-2732-B; (10-1-99)T
- u. Indecent exposure, Section 18-4116, Idaho Code; (10-1-99)T
- v. Counseling, etc. children to commit crimes, Section 18-204, Idaho Code; (10-1-99)T
- w. Criminal neglect, Section 18-1501, Idaho Code; (10-1-99)T
- x. Excessive punishment, Section 18-1501, Idaho Code; (10-1-99)T
- y. Ritualized abuse of a child, Section 18-1506-A, Idaho Code; (10-1-99)T
- z. Providing shelter to a runaway child, Section 18-1510, Idaho Code; (10-1-99)T
- aa. Sexual exploitation of a child, Section 18-1507, Idaho Code; (10-1-99)T
- bb. Conviction for attempt to commit or conspiracy to commit any of the above offenses or any substantially similar crime in another state or jurisdiction. (10-1-99)T

224. PROGRAM.

Contract programs with the Department shall provide rehabilitative services designed to improve the juvenile's behavior in the home and to facilitate his successful return to his home/community. (10-1-99)T

225. ADMISSION POLICIES.

Each contractor shall have clearly defined written policies and procedures governing admission. The policy and procedures shall include, but not be limited to: (10-1-99)T

01. Types Of Information. The types of information to be gathered on all applicants before admission, criteria for acceptance, and procedures to be followed when accepting or rejecting referrals. Written notification of acceptance or rejection shall be submitted on the referral cover sheet to the Placement Manager within seven (7) days of receipt of referral. (10-1-99)T

02. Admission Policy Shall Be Stated In Contact. The admission policy shall be clearly stated in the contract with the Department and shall list the specific population to be served, the specific admission criteria, and specific exclusions. (10-1-99)T

03. Change In Admission Policy. Any change in the admission policy shall be considered a change in the contract, requiring a formal contract amendment or waiver. This does not preclude temporary exceptions requested by the Department or approved for the facility by the Department (i.e., changes in age limitations, level of intellectual functioning, pregnancy, and mental status). (10-1-99)T

04. Admission Of Juveniles. No juvenile shall be refused admission due to race, ethnic origin, or religion. (10-1-99)T

05. Admitting More Juveniles Than Specified In Provider's License. Without authorization from the licensing agency and the Department, a contractor shall not admit more juveniles into care than the number specified on the provider's license. If a contractor wishes to increase capacity, he is responsible for contacting the licensing agency. A copy of the written confirmation to the contractor from the licensing agency for verbal approval to exceed the licensed capacity shall be forwarded to the Juvenile Management Center Superintendent and the Contract Manager. (10-1-99)T

06. Admission Based On Assessed Needs And Contractors Ability To Meet Same. A juvenile's admission into a program shall be based on an assessment of the juvenile's comprehensive problems and needs and on the ability of the contractor to address same. A contractor shall not accept any juvenile for placement whose needs cannot be adequately met by the provider's program. (10-1-99)T

07. Participation In Admission Process. A contractor shall ensure, if feasible, that the juvenile and

the person legally responsible for him are provided an opportunity to participate in the admission process and related decisions. (10-1-99)T

226. EMERGENCY PLACEMENT.

A residential facility shall not admit a juvenile on an emergency placement if the presence of that juvenile will be damaging to the on-going functioning of the group and/or the juveniles already in care. When a juvenile is accepted for emergency placement any available social, evaluative, and medical information shall be provided by the Placement Manager. (10-1-99)T

227. RIGHT OF REFUSAL.

A contractor shall not, without just cause, deny admission to any juvenile who meets the specific admission criteria set forth in the program description. If a contractor rejects a referral that the Department determines is consistent with the contract criteria for admission, the contractor shall submit in writing, or "e-mail", to the Placement Manager specific justification for rejecting the juvenile referred by the Department. (10-1-99)T

228. DISCHARGES.

01. Department Concurrence. A juvenile cannot be released from the program without prior concurrence of the Department. Release preparation for a juvenile begins with the initial development of an individual program plan and is an ongoing process throughout the juvenile's program. Criteria for the juvenile's release shall be explained to him/her as soon after admission to a program as possible. (10-1-99)T

02. Release Preparation. The District Juvenile Services Coordinator is responsible for release preparation and must ensure that all the facility's obligations to the juvenile have been met prior to release. (10-1-99)T

229. PLANNED DISCHARGES.

01. Successful Completion. A planned discharge is a discharge following the juvenile's successful completion of his treatment program. (10-1-99)T

02. Release Plan. As soon as a juvenile is admitted to a program, a written release plan or aftercare plan shall be formulated. The release plan shall include expected length of stay, specific program goals to be achieved while in the program, and plans to support and the resources to be provided to the juvenile in order to continue to meet treatment goals in the community. (10-1-99)T

03. Written Recommendation. A contractor shall provide to the District Juvenile Services Coordinator a written recommendation for release at least thirty (30) days prior to the juvenile's completion of the program. This recommendation shall include a current summary of the juvenile's progress, a summary of the efforts to reach the juvenile's goals and objectives, any unresolved goals or objectives, goals and objectives for parents/aftercare workers to continue to reinforce, recommendation for continuing service in the home community, the prognosis, and the current address of the recommended custodian. (10-1-99)T

04. Release Staffing. The Department shall convene a release "staffing" which will include the juvenile's probation officer, the contractor, the juvenile's parent(s), and the juvenile. Based upon the results of that "staffing", the Department will make the final decision regarding release. (10-1-99)T

05. Discharge Procedures. The following procedures shall be completed at the time of discharge: (10-1-99)T

a. The contractor shall immediately provide to the individual or agency authorized to transport the juvenile his medication, prescriptions and Medicaid card. (10-1-99)T

b. Within two (2) working days after a student leaves the facility, the contractor shall provide to the appropriate District Juvenile Services Coordinator any dental or medical records available, and all school records available from school(s) the juvenile attended while in the program. (10-1-99)T

c. Within two (2) working days after a student leaves a facility, a report showing the student's total hours, credits and associated grades shall also be transmitted directly to the Department's education coordinator. The contractor shall maintain adequate documentation to support the submitted education reports. Timely receipt of these records is critical to assisting the transition of the juvenile to another educational facility. (10-1-99)T

230. "UNPLANNED" DISCHARGES.

01. Termination Prior To Completion. An "unplanned" discharge is a juvenile's termination prior to the completion of the planned treatment program, either at the request of the contractor or on the initiative of the Department. (10-1-99)T

02. Case Staffing. When a contractor believes a juvenile is at risk for an unplanned discharge, the contractor shall request a case staffing with the District Juvenile Services Coordinator to determine if the identified needs/problems can be resolved. (10-1-99)T

03. Written Policy. A contractor shall have a written policy concerning unplanned discharges. If the discharge is at the request of the contractor, the contractor shall provide a written request for release, at least fourteen (14) days prior to the recommended date of removal. This request shall include, but is not limited to, the following information: (10-1-99)T

a. A current summary of the juvenile's progress; (10-1-99)T

b. A summary of the juveniles' efforts towards achieving individual goals and objectives; (10-1-99)T

c. Specific offense(s) and, where applicable, dates and incident reports regarding the offense(s) which precipitated the request for removal; and (10-1-99)T

d. Any unresolved goals or objectives. (10-1-99)T

04. Provider Staffing. Upon receipt of the fourteen (14) day notice of discharge the District Juvenile Services Coordinator shall schedule (to be held within five (5) days) a staffing with the provider to discuss the appropriateness of the request and determine what steps need to be taken in order to execute the discharge. The recommendation shall be documented on the Department staffing form and forwarded to the Placement Manager for approval. If an agreement cannot be reached, the case shall then be immediately referred to the Placement Manager for review and to allow for sufficient time for a decision to be made prior to the 14th day. (10-1-99)T

05. Prior Approval. No juvenile shall be discharged from the facility without prior approval of the Placement Manager. (10-1-99)T

06. Discharge Due To Behavior. A contractor shall not request the discharge of a juvenile based solely on behaviors specifically identified in the contract as "admission criteria". (10-1-99)T

231. EMERGENCY DISCHARGES.

01. Discharge Situations. Emergency discharge situations include, but are not necessarily limited to, the following: (10-1-99)T

a. Juvenile participation in a major disturbance at the facility (i.e., riot or hostage situation, etc.); (10-1-99)T

b. Involvement and/or arrest of a juvenile for use, or threatened use, of a weapon against another person; or (10-1-99)T

c. Attempted suicides and other psychiatric emergencies. (10-1-99)T

02. Endangerment To Staff/Juvenile. Emergency discharges shall be initiated only when the health and safety of a juvenile or staff is endangered by the juvenile's continued placement at the facility. (10-1-99)T

03. Hospitalization. Emergency discharge situations which result in hospitalization in a non-public facility due to psychiatric or medical reasons shall require prior authorization from the Placement Manager, or his designee. (10-1-99)T

04. Written Policy. A contractor shall: (10-1-99)T

a. Have a written policy concerning emergency discharges. The policy shall include as a minimum the following provisions: unless an extremely urgent situation exists, the facility shall give the Department a seventy-two (72) hour notice of discharge; (10-1-99)T

b. Except in cases of life threatening emergencies, emergency discharges shall take place only after consulting with the District Juvenile Services Coordinator; and (10-1-99)T

c. In cases of life threatening emergencies, the Placement Manager or his designee shall be contacted as soon as possible. (10-1-99)T

232. DISCHARGE SUMMARY.

01. Comprehensive Discharge Summary. In cases of all discharges, the facility shall provide a comprehensive discharge summary to the District Juvenile Services Coordinator to include, at a minimum a report on progress/lack of progress on all treatment plan areas, recommendations for follow-up, and prognosis as well as all educational and medical records. (10-1-99)T

02. Reporting Requirements. The report shall be forwarded to the Department within two (2) working days of the date of discharge if the juvenile has completed the program. The report shall be forwarded within seventy-two (72) hours of discharge if it is an unplanned discharge or emergency discharge. (10-1-99)T

233. RESERVATION OF PROGRAM SLOTS.

01. Interruption. When a juvenile's treatment program is interrupted and there is an expectation that the juvenile will return and continue to receive services, a program slot may be reserved for this purpose. (10-1-99)T

02. Reserved Time. Hospitalization for psychiatric or medical reasons, trial home visits, court appearances and escapes are routine situations for program slot reservation. In these cases, the program slot may be reserved for up to two (2) days. (10-1-99)T

03. Escape Status. Program slots shall be reserved for juveniles who are on escape status for two (2) days, unless early discharge is requested by the Department Placement Manager. (10-1-99)T

04. Department Contact. When a program slot is to be reserved, the contractor shall contact the District Juvenile Services Coordinator and request that the slot be reserved. (This action may also be initiated by the Department in which case the request should be coordinated with the facility.) (10-1-99)T

05. No Plan For Return. If there is no definite plan for the juvenile to return to the program (residential or non-residential) or if a date of return cannot be established within the maximum time allotted, the juvenile should be discharged effective the last day he was physically present in the program. (10-1-99)T

234. NON-RESIDENTIAL ABSENCES.

Program Attendance. Non-residential programs shall make reasonable efforts to ensure that the juveniles attend their program daily. The non-residential program shall inform the District Juvenile Services Coordinator of daily attendance and all attendance problems. The reporting guidelines shall be as follows: (10-1-99)T

01. Daily Attendance. Daily attendance shall be reported by 10 a.m. (10-1-99)T

02. Plan Of Action. When a juvenile is absent for two (2) consecutive meetings/appointments the facility shall provide the District Juvenile Services Coordinator with a plan of action to include the reason for the

absences, if known, the facility's efforts to assist the juvenile in returning back to the program, and the juvenile's expected date of return, if known. (10-1-99)T

03. Staffing. The District Juvenile Services Coordinator will conduct a staffing if no plan of action is submitted or the plan is inappropriate. (10-1-99)T

04. Notification of Parent(s). The facility shall also notify the juvenile's parent(s) of the absence as soon as practical. (10-1-99)T

235. TIME LIMIT (RESIDENTIAL PROGRAMS).

Unless the Department Director or his designee gives specific approval, the maximum time for which a program slot may be reserved and the contractor continue to receive payment is forty-eight (48) consecutive hours. At the end of this time, payment ceases and the juvenile shall be discharged from the program. If the juvenile returns to the program after the maximum time allotted for reservation of a program slot, new placement documents must be initiated by the Placement Manager. (10-1-99)T

236. HOME PASSES.

01. Potential Risk To Public Safety. Home passes for juveniles assigned to residential facilities should be considered as an integral part of the offender's treatment plan. However, in all cases, the potential risk to public safety and adequacy of home supervision shall be considered prior to allowing a juvenile to return home. It is also important that passes not interfere with the ongoing treatment and supervision needed by juveniles in Department custody. (10-1-99)T

02. Pass Restrictions. Prior to granting an initial home pass to a juvenile, the contractor shall contact the Juvenile Probation officer and the District Juvenile Services Coordinator to assure whether the court or the Department has placed restrictions on the juvenile's pass privileges. All requests for home passes must be approved by the District Juvenile Services Coordinator. Home passes involving an overnight stay or which involves special circumstances (such as a victim in the home) must be approved in writing two (2) weeks in advance by the District Juvenile Services Coordinator. (10-1-99)T

237. ELIGIBILITY.

Eligibility for passes shall be determined by the contractor in accordance with the program description submitted to and approved by the Placement Manager or as part of a Contract Proposal, subject to the following conditions: (10-1-99)T

01. Eligibility. A juvenile must be in placement a minimum of thirty (30) days before he is eligible for any passes. Any exceptions due to extenuating circumstances must be approved by the District Juvenile Services Coordinator from the juvenile's original district (refer to Section 241 of these rules). (10-1-99)T

02. Restrictions. The committing juvenile court, the juvenile's probation officer or original district Juvenile Services Coordinator may prohibit or otherwise restrict home passes. (10-1-99)T

238. FREQUENCY.

Frequency of passes shall be consistent with the terms of the juvenile's individual service plan and shall be determined by the contractor in accordance with the program description submitted to and approved in accordance to contract requirements, subject to the following: (10-1-99)T

01. Frequency Of Home Passes. Home passes shall not exceed ninety-six (96) hours per month unless the juvenile is being prepared to return to his community within the next thirty (30) days. If this is the case, more frequent home passes may be approved by the District Juvenile Services Coordinator upon receipt of a written request from the contractor. (10-1-99)T

02. Number Of Hours A Juvenile Is Allowed On Pass. No juvenile shall be allowed to be on pass for more than one-hundred sixty-eight (168) hours during a thirty (30) day period. (10-1-99)T

239. "SPECIAL" AND HOLIDAY PASSES.

01. Guidelines. When planning holiday home passes, the following guidelines shall be adhered to: (10-1-99)T

a. Juveniles should be advised about the criteria for holiday home passes as far in advance as possible. There should be no deviation from this criteria. (10-1-99)T

b. To the extent possible, passes should be in line with the existing behavioral treatment program (i.e., level system). (10-1-99)T

c. The length of the pass should be based on the needs of the juvenile rather than those of facility staff. (10-1-99)T

d. Regular passes can be accumulated during the month for an extended holiday pass up to a maximum of ninety-six (96) hours for those juveniles on the highest program levels. (10-1-99)T

e. Under no circumstances may a juvenile obtain a pass to visit facility staff, the family of facility staff, or the family of other juveniles. (10-1-99)T

02. Approval. All other special passes (i.e., funerals, extra passes due to weather conditions, etc.) must be approved by the District Juvenile Services Coordinator. (10-1-99)T

240. GROUP ACTIVITIES WITH DEPARTMENT JUVENILES AWAY FROM AGENCY FACILITIES.

01. Recreational Activities. This policy applies to all Juvenile Corrections youth involved in outdoor recreational or work activities with an increased risk, i.e., overnight trips, water activities, etc. Facility Staff are to be responsible to ensure adherence to this policy as it applies to youth they oversee and to designate one (1) program staff member to be responsible for planning and conducting each trip which falls under this guideline. Individuals responsible for conducting the activity shall bring to the attention of the Facility Administrator hazards not specifically covered by this policy statement so that individual determination can be made regarding authorization of the program. (10-1-99)T

02. Requirements. (10-1-99)T

a. An activity plan and itinerary covering activities to be engaged in, when and where the group is going, how they will travel, how long they will stay and why the activity is being planned will be submitted to the local District Juvenile Services Coordinator prior to the event. Time will be allowed for thorough review of plans before the group leaves. Routine, low risk activities within the local community(ies) adjacent to the facility do not require prior approval and are to be conducted at the discretion of and under the responsibility of the Contractor. (10-1-99)T

b. A basic first aid kit and current Red Cross First Aid Manual will be taken with the group. At least one (1) person certified in first aid and CPR shall accompany the group. (10-1-99)T

c. A staff or trained volunteer to client ratio of one (1) to six (6) for youth will be adhered to as a minimum unless there is a reason to require more staff. Physical disabilities, high client irresponsibility, mental deficiencies, or inclusion of groups of youth below age twelve (12) are reasons to consider additional staff. (10-1-99)T

d. All participants will be registered as program clients, staff, or volunteers including name, age, address, program title, and date. (10-1-99)T

e. All clients will have Department consent forms signed by parents or guardians (if available) and Department's Juvenile Management Center (JMC) staff giving permission for program participation and acknowledging awareness of the activities to be engaged in along with permission to seek and/or administer necessary medical attention in the case of emergency. (10-1-99)T

f. There will be no consumption of alcoholic beverages or illicit drugs by staff or participants while engaged in any agency-sponsored trip or activity. (10-1-99)T

g. The Department's District Juvenile Services Coordinator will be given a list of all program participants prior to the activity. (10-1-99)T

h. The Department's District Juvenile Services Coordinator will be advised of the staff and volunteers involved in the program. (10-1-99)T

i. Swimming will only be allowed when a person in attendance has one (1) of the following certifications: (10-1-99)T

i. Basic Rescue and Water Safety Course; (10-1-99)T

ii. Water Safety Instruction; or (10-1-99)T

iii. Red Cross Life Saving Course. (10-1-99)T

j. Activities involving specific hazards will be evaluated as a planning procedure to determine potential hazard, precautions to eliminate or cope with each hazard, and the Department's Juvenile Management Center will review and approve these plans. (10-1-99)T

k. Injuries will be dealt with as follows: (10-1-99)T

i. Minor injuries, small cuts, minor burns, bruises, sprains, etc., will be treated immediately according to current Red Cross First Aid procedures. (10-1-99)T

ii. Serious or potentially serious injuries such as broken bones, large cuts or abrasions, concussions, etc., must be treated by a physician as soon as possible. If the injured person can safely be moved or if no ambulance is available, the person will be transported to the nearest medical clinic or hospital emergency room for treatment. If the person should not be moved, as in cases of suspected spinal injury, he should receive basic first aid as indicated in the Red Cross Manual and an ambulance should be requested. Parents are to be notified by the person in charge as soon as possible in cases of any injury requiring medical attention. (10-1-99)T

iii. A complete accident report will be filled out on all major injuries and returned to the Department's Juvenile Management Center as soon as possible. (10-1-99)T

iv. The Department's Juvenile Management Center will be notified at the first opportunity of serious injuries. (10-1-99)T

241. SPECIAL CASES.

01. Variations. If a contractor has need to regularly vary from the conditions set forth in this Section in order to promote the objectives of the treatment program, a specific plan for passes/earned leave must be developed. The plan should be submitted in advance to the Placement Manager or his designee for approval. The approved plan will become the procedures to be followed by the contractor. (10-1-99)T

02. Frequency/Duration Of Passes. Specific exceptions regarding the frequency and duration of passes may be granted by the District Juvenile Services Coordinator on a case-by-case basis, upon receipt of a written request by the contractor. (10-1-99)T

242. TRANSPORTATION.

01. Facility Passes. Payment for transportation to and from the facility for passes that are a part of the facility's approved program description, or are in accordance with the juvenile's Individual Treatment Plan, shall be the responsibility of the contractor. (10-1-99)T

02. Other Passes. Payment for transportation for all other passes are the responsibility of the juvenile's family or the individual requesting the pass. (10-1-99)T

03. Arrangements. Arrangements for transportation and care shall be made between the facility and Department's Juvenile Management Center immediately upon receiving written notification requesting the juvenile's appearance at a court hearing. (10-1-99)T

243. REPORTING.

At the conclusion of each home pass the facility shall determine whether any problems occurred or other significant positive or negative events transpired while the juvenile was on pass. This information shall be documented in the facility case record. Any unusual occurrences shall be reported to the District Juvenile Services Coordinator who will report the incident to the Placement Manager. A drug screening UA may be conducted on each returning juvenile, at the expense of the contractor, and the results of that exam reported to the District Juvenile Services Coordinator. (10-1-99)T

244. TEMPORARY CLOSURE OF FACILITY.

01. Prior Approval. Contractors providing services to the Department are expected to provide these services on a continuous basis consistent with the terms of the contract. Without prior approval of the Department, a facility cannot be closed by assigning all juveniles home on pass. (10-1-99)T

02. Temporary Closures. The only situation not requiring prior approval for temporary closure shall be a natural disaster, fire, flood, or other emergency situation in which the facility may be closed temporarily at the discretion of the contractor. Payment shall be withheld if a facility cannot justify closure. (10-1-99)T

03. Notification. The Department shall be notified as soon as possible so that alternative arrangements may be made for program participants. (10-1-99)T

245. IN-STATE TRAVEL.

01. Overnight Outings. Planned overnight facility outings in-state maybe approved by the District Juvenile Services Coordinator. (10-1-99)T

02. Notification. The facility administrator, or his designee, shall notify the District Juvenile Services Coordinator in writing at least three (3) days prior to the outing the date(s) of the outing, location of over-night accommodations, scheduled location of outing, the number of juveniles involved, and the number of staff providing supervision as well as their names and positions. (10-1-99)T

03. Unusual Occurrences. Any "unusual occurrences" during the outing shall be reported to the District Juvenile Services Coordinator who will report the incident to the Placement Manager. (10-1-99)T

246. OUT-OF-STATE TRAVEL.

When a facility is planning an out-of-state trip for any of its residents, the facility administrator shall obtain prior authorization from the Placement Manager or his designee. The necessary sequence of action and approval is as follows: (10-1-99)T

01. Notification. The contractor notifies the District Juvenile Services Coordinator in writing two (2) weeks in advance of the scheduled outing the date(s) of the scheduled trip, the location of the trip, transportation arrangements, where the juvenile(s) will be staying if overnight accommodations are required (address/phone number), and who is going, i.e., juvenile(s) and staff by name and position. (10-1-99)T

02. Prior Approval. The facility administrator shall obtain all necessary approvals prior to authorizing travel. (10-1-99)T

03. Confirmation of Approval. The facility administrator shall contact the District Juvenile Services Coordinator for confirmation that approval has been obtained from the Placement Manager for out-of-state travel.

(10-1-99)T

247. OUT-OF-STATE TRAVEL/INDIVIDUAL JUVENILES.

Out-of-state travel for an individual juvenile in the custody of the Department must have the prior written approval of the Department Placement Manager. The information required in Subsection 246.02 shall be included in the request for out-of-state travel. (10-1-99)T

248. TREATMENT.

01. Common Treatment Elements. Contract programs which offer treatment services to juveniles in the custody of the Department are a diverse group. Even though many contract programs offer unique patterns of services, it is possible to identify common treatment elements in the majority of contract programs and to establish a minimum standard for content and competency. (10-1-99)T

02. Waiver Or Variation. Minimum treatment standards established herein shall apply to all services provided by the contractor. Any waiver or variation from the standards stated in this Section must be specified in the contract with the Department. (10-1-99)T

249. INDIVIDUAL TREATMENT PLAN.

01. Assessment. Each juvenile assigned to the care of the contractor shall be assessed to determine educational, vocational, personal, behavioral, placement and chemical dependency needs. The plan shall state expected goals and behavior, reflect the components of the Balanced Approach, and shall be completed and submitted to the District Juvenile Services Coordinator within thirty (30) days of admission. It should satisfy requirements set forth by licensing standards. (10-1-99)T

02. Individualized Treatment Plan. The contractor shall provide an individualized treatment plan designed to enhance the growth and development of each juvenile assigned to their care and consistent with the personal needs of the child as identified by the assessment. This plan shall include input from the JPO and the District Juvenile Services Coordinator. The contractor shall provide required information on the juvenile's current status to the District Juvenile Services Coordinator on a monthly basis. These reports must include, in part, treatment progress, educational status and other program status and other program status information. (10-1-99)T

250. COUNSELING.

For the purpose of this Section, all counseling services provided to juveniles, whether individual, group or family, must possess the following elements: (10-1-99)T

01. Planning. Counseling should be planned and goal directed. (10-1-99)T

02. Methods. The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by assessment. (10-1-99)T

03. Direction. Counseling should be reality oriented and directed toward helping individuals understand and solve specific problems, to discontinue inappropriate, damaging, destructive or dangerous behaviors, and/or to fulfill individual needs. (10-1-99)T

04. Minimum Standard. The minimum standard for the frequency of counseling services shall be specified in the Statement of Work portion of the contract with the Department. (10-1-99)T

05. Progress. There should be a mechanism developed to monitor and record incremental progress toward desired outcome of counseling services. (10-1-99)T

251. INDIVIDUAL COUNSELING.

01. Availability. Individual counseling shall be available as an ongoing component of the juvenile's Individual Treatment Plan. If the assessment indicates a need for these services, individual counseling shall make provisions for crisis intervention and pursuit of goals/behaviors identified in the juvenile's Individual Treatment Plan.

(10-1-99)T

02. Space Requirement For Treatment. The contractor shall furnish adequate space for conducting private interviews and counseling sessions at the facility. The room(s) should be comfortably furnished. (10-1-99)T

252. GROUP COUNSELING.

01. Availability. Group Counseling shall be available as an ongoing component of the juvenile's Individual Treatment Plan. If the assessment indicates a need for these services, group counseling shall provide for crisis intervention and attention to goals/behaviors relevant to the entire group. (10-1-99)T

02. Space Requirement For Treatment. The contractor shall provide sufficient space to accommodate group meetings at the facility. The room(s) should be comfortably furnished. (10-1-99)T

253. FAMILY COUNSELING.

01. Availability. Family counseling services shall be available as a part of the juvenile's Individual Treatment Plan. If the assessment indicates a need for these services, family counseling should specifically address issues that directly or indirectly resulted in the child's removal from his home and the issue of his eventual reintegration back into the family unit. A statement of goals to be achieved or worked towards by the juvenile and his family should be part of the Individual Treatment Plan. (10-1-99)T

02. Counselor Qualifications. Family counseling may include private family counseling sessions and/or family group sessions, which shall be conducted by a staff person with, at a minimum, a Masters of Social Work, Masters of Counseling, or Masters of Psychology. (10-1-99)T

254. SUBSTANCE ABUSE COUNSELING.

01. Participation. Juveniles with an identified substance abuse problem shall participate in substance abuse counseling with a certified substance abuse counselor and should have access to in-house and/or community AA/NA meetings, at the appropriate point in his treatment. (10-1-99)T

02. Education. Juveniles considered to be at risk for substance abuse shall participate in drug awareness education. (10-1-99)T

255. INDEPENDENT LIVING SKILLS TRAINING.

01. Minimum Training. A residential contractor shall have a program to train age-appropriate juveniles in independent living skills consistent with their needs. This program shall include, at a minimum, instruction in: (10-1-99)T

- a. Hygiene and grooming skills; (10-1-99)T
- b. Laundry and maintenance of clothing; (10-1-99)T
- c. Appropriate social skills; (10-1-99)T
- d. Housekeeping; (10-1-99)T
- e. Use of recreation and leisure time; (10-1-99)T
- f. Use of community resources; and (10-1-99)T
- g. Money management. (10-1-99)T

02. Additional Training. When appropriate, the program shall also include instruction and training in: (10-1-99)T

- a. Use of transportation; (10-1-99)T
- b. Budgeting and shopping; (10-1-99)T
- c. Cooking; (10-1-99)T
- d. Punctuality, attendance and other employment-related matters; and (10-1-99)T
- e. Vocational planning. (10-1-99)T

256. RECREATION.

01. Written Plan. A residential contractor shall have a written plan for providing recreational services based on individual needs, interests, and the functional levels of the juveniles served. (10-1-99)T

02. Activities. The recreational program should include indoor and outdoor activities. Activities should minimize television and make use of a full array of table games and other activities that encourage both solitary entertainment and small group interaction. A comfortable furnished area should be designated inside the facility for leisure activities. (10-1-99)T

03. Staff. The contractor shall have staff educated/experienced in recreational programs to ensure good planning, organizing, supervision, and use of facility and community activities. Recreational activities considered part of the treatment plan shall be funded by the contractor. The use of community recreational resources should be maximized. When feasible for the juvenile population served, the contractor shall arrange the transportation and supervision required for maximum usage of community resources. No juvenile shall be required to pay to participate in recreational activities made available through the program. (10-1-99)T

257. EMPLOYMENT.

01. Written Policies And Procedures. If consistent with the particular program, written policy and procedure shall provide that program resources and staff time are devoted to helping employable juveniles locate employment. Staff shall ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The contractor shall make periodic checks on the job-site to ensure the juvenile is working under acceptable conditions. The juvenile's employer shall be consulted regularly by the contractor concerning the juvenile's work abilities and performance on the job-site. (10-1-99)T

02. Employment Opportunities. Every reasonable effort shall be made to select employment opportunities that are consistent with the individual interests of the juvenile to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training and that may be suitable for continuing post release employment. Reasonable effort shall be made to provide juveniles with the highest paying job possible. Earned income by a juvenile shall be handled consistent with Subsection 267.05 of these rules. (10-1-99)T

258. EDUCATION.

01. Appropriate Services. A residential contractor shall ensure that each juvenile is given appropriate educational and vocational services that are consistent with the juvenile's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. (10-1-99)T

02. Mandatory Enrollment. All juveniles of mandatory school age or who have not yet obtained a GED or high school diploma shall be enrolled in a school system or in a program approved and/or certified by the State Board of Education to provide both special education and other services. Any contractor who provides education on the grounds of a facility through a cooperative agreement with the local education agency, or by virtue of an approved alternative school status, shall ensure that all educational services and accommodations included in the juvenile's Individual Education Plan (IEP) and required by state and federal regulation are provided by a properly state-certified teacher or teachers. (10-1-99)T

03. Special Education. The contractor shall ensure that the special education needs of juveniles assigned to his care are addressed. The contractor must comply with Section 504 of the Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act (IDEA), as well as any other applicable state or federal laws. If a juvenile entering the facility has a valid IEP for delivery of 504 or IDEA services, the contractor must convene a Child Study Team that includes the Department's educational coordinator or designee within 30 days of the juvenile's admission to the facility. Under no circumstances shall the contractor or its teaching staff make modifications in the juvenile's 504 or IDEA educational program without conducting a Child Study Team meeting in consultation with the Department's educational coordinator or designee. (10-1-99)T

04. Cooperative Relationships. The contractor shall make a good faith effort to maintain cooperative relationships with local school systems, colleges, and trade schools for the purpose of developing and maintaining suitable programs for juveniles. (10-1-99)T

05. Gainful Employment. All juveniles not enrolled in an appropriate educational/vocational program should be gainfully employed, if possible. (10-1-99)T

06. Structured Activities. The contractor shall provide structured educational activities for juveniles pending their enrollment in an appropriate educational/vocational setting. Each juvenile must be enrolled in the appropriate educational or vocational program no more than one (1) week after being placed in the contractor's facility. (10-1-99)T

07. Minimum Hours Of School. The contractor will provide educational services to juveniles for a minimum of four (4) hours each school day. The course of study for each juvenile shall be determined based on his or her individual needs, and shall take into account the juvenile's program design and probable release situation. (10-1-99)T

08. Student Records. Student records shall be maintained by the contractor at all times in accordance with the Family Rights and Privacy Act (FERPA). At a minimum, the following information shall be included in the record: subjects taken, grades by subject and explanation of the grading system, units of credit with explanation, attendance records and any standardized test scores. Reports of the student's educational progress shall be provided in the manner and within the time periods specified in section 260. (10-1-99)T

259. RELIGION.

01. Policy And Procedure. Written policy and procedure shall ensure that attendance at religious services is voluntary. No juvenile shall be required to attend religious services. (10-1-99)T

02. Voluntary Practice. All juveniles shall be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional or physical well being of the juveniles in the facility. (10-1-99)T

03. Attendance. Juveniles may be permitted to attend religious services of their choice in the community. (10-1-99)T

04. Transportation. The contractor must, when reasonably possible, arrange transportation for those juveniles who desire to take part in religious activities in the community. (10-1-99)T

05. Risk/Safety To Community. If the juvenile cannot attend religious services in the community because staff has reason to believe he would attempt to escape, or otherwise present a risk to the safety of the community, the contractor shall make every effort to ensure that he has the opportunity to participate in religious services at the facility. (10-1-99)T

06. Visits. Juveniles should be permitted to receive visits from representatives of their respective faiths. (10-1-99)T

07. Minor Juveniles. When the juvenile is a minor, the contractor shall determine the wishes of the

legally responsible person with regard to religious observances and shall make every effort to ensure that these wishes are carried out. (10-1-99)T

260. REPORTING TREATMENT PROGRESS.

01. Reports. The contractor shall submit in writing a Monthly Progress Report on each juvenile. The first report shall be submitted within thirty (30) days of placement and shall include the combined service plan. A copy of the juvenile's education plan shall be a component of the combined service plan. This education plan (student learning plan) shall, at a minimum, include the juvenile's course of study (GED, secondary, post-secondary, etc.), long-term educational goals and short-term objectives. If the juvenile has been identified as eligible to receive services under 504 or IDEA, a copy of the IEP and supporting documentation shall be included in the treatment plan and this report. Subsequent reports shall be submitted monthly. (10-1-99)T

02. Progress Documentation. The monthly report shall document the juvenile's progress toward the goals and objectives set forth in the individualized service plan. Monthly reports should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). The monthly report shall, at a minimum, also include: (10-1-99)T

a. The juvenile's medical condition, any medical treatment and/or medications prescribed; (10-1-99)T

b. The juvenile's progress toward completion of his or her educational plan. At a minimum, this shall include credits earned or hours completed and grades. If a student is working on completion of a GED or high school equivalency program, the report should include test(s) taken and the respective scores; (10-1-99)T

c. Any unusual occurrence reports involving the juvenile; (10-1-99)T

d. The dates of any home visits during the month's reporting period and, if applicable, documentation of any problems reported; and (10-1-99)T

e. The dates of family counseling sessions and documentation of parental participation. (10-1-99)T

03. Report Distribution. Copies of the monthly report shall be distributed by the contractor to the District Juvenile Services Coordinator, the juvenile's probation officer, and to the Department Juvenile Management Center. The parent or guardian of the juvenile should receive a written progress report on the juvenile at least quarterly. The District Juvenile Services Coordinator will review and forward the quarterly report to the appropriate court. (10-1-99)T

261. CONFIDENTIALITY.

01. Provisions. Sections 20-525 and 9-340(2)(b), Idaho Code, provides for confidentiality, under certain conditions, of records that contain information about juveniles. (10-1-99)T

02. Confidentiality. All records shall be stamped "confidential" on the cover or outside folder. (10-1-99)T

03. Record Supervision. Juvenile records shall be kept in locked areas and shall be directly supervised and controlled by an authorized staff member. (10-1-99)T

04. Automated Records. Automated records shall include a procedure to ensure confidentiality. (10-1-99)T

05. Policy And Procedure. The contractor shall have written policy and procedures to address the confidentiality of juvenile records. (10-1-99)T

06. Availability Of Information. Written policy shall specify what information will be available to the

juvenile and/or to the juvenile's parent/guardian, particularly in the following instances: if the juvenile's mental and/or social adjustment might be negatively affected, if a co-defendant is involved, if a confidential juvenile record is included, or if informants are named in the record. (10-1-99)T

07. Records Supervision. Written procedures shall specify who will supervise the maintenance of the records, who shall have custody of records, and to whom records may be released. (10-1-99)T

262. ACCESS.

01. Limitations. Access to confidential juvenile files shall be limited to the following authorized persons: (10-1-99)T

a. Staff authorized by the contractor and members of the administrative staff of the contractor's parent agency; (10-1-99)T

b. A parent/guardian for juveniles under age eighteen (18) or the juvenile, if he is age eighteen (18) or over; (10-1-99)T

c. Appropriate staff of the Department; (10-1-99)T

d. Counsel for the juvenile with signed consent form; (10-1-99)T

e. Judges, prosecutors, and law enforcement officers, when essential for official business; (10-1-99)T

f. Individuals and agencies approved by the Department to conduct research and evaluation or statistical studies; or (10-1-99)T

g. Schools. (10-1-99)T

02. Withholding Of Information. If the Department or the contractor believes that information contained in the record would be damaging to the juvenile's treatment/rehabilitation, that information may be withheld from the juvenile and/or his parent(s) or others except under court order. (10-1-99)T

263. JUVENILE PHOTOGRAPHS.

01. Limitations. No juvenile in the custody of the Department shall be used in person or by photograph for the express purpose of any fund raising efforts. (10-1-99)T

02. Policy And Procedure. Written policy and procedure shall specify instances under which information concerning a juvenile shall be released. This policy shall include, but not be limited to, release of photographs to the media or for inclusion in facility news letters or publications. Permission to release or use the photographs of juveniles in the custody of the Department shall require written authorization from the Director or his designee. (10-1-99)T

264. RELEASE FORMS.

01. Release Of Information. The juvenile and parent or guardian will sign a Release of Information Consent Form before information about the juvenile is released to any non-juvenile justice entity. (10-1-99)T

02. Minimum Information. The Release of Information Consent Form shall, at a minimum, include the following: (10-1-99)T

a. Name of person, agency or organization requesting information; (10-1-99)T

b. Name of person, agency or organization releasing information; (10-1-99)T

c. The specific information to be disclosed; (10-1-99)T

- d. The date consent form is signed; (10-1-99)T
- e. Signature of the juvenile and the parent/guardian; and (10-1-99)T
- f. The signature of the person witnessing the juvenile's signature. (10-1-99)T

03. Copies. A copy of the consent form shall be maintained in the juvenile's record. (10-1-99)T

04. Document Reproduction. The contractor agrees that no documents provided by the Department shall be reproduced or distributed without the written permission of the Department. (10-1-99)T

265. RETENTION OF JUVENILE RECORDS.

All juvenile records shall be retained until the juvenile reaches age twenty-one (21) or for six (6) years, whichever is longer. Contractors shall have a written policy on the retention and disposal of records. (10-1-99)T

266. CLOTHING.

01. Sufficient Clothing. Juveniles shall have sufficient clothing of the proper weight to participate in activities included in their Individual Treatment Plan. Juveniles may arrive at the facility with their own clothing. If the juvenile does not have sufficient clothing, or appropriate clothing, the contractor shall provide or purchase adequate and appropriate clothing for the juvenile. (10-1-99)T

02. Release From Facility. All clothing and incidentals become the property of the juvenile upon release from the facility. The contractor will ensure the proper care and cleaning of clothing in the juvenile's possession. (10-1-99)T

03. Replacement Clothing. Clothing provided and/or purchased as replacement will be at the expense of the contractor. Unique items of clothing not required for program participation may be purchased at the expense of the juvenile. (10-1-99)T

267. PERSONAL FUNDS.

01. Funds Handled By A Contractor. (10-1-99)T

a. A contractor shall be required to deposit all personal funds collected for the juvenile in a public banking institution in an account specifically designated "Juvenile Personal Funds" and to maintain a ledger showing the status of each juvenile's account. If the funds are collected in an interest bearing account the interest accrued MUST be given to the juvenile for whom the fund is collected. (10-1-99)T

b. All withdrawals by a juvenile or expenditures made on behalf of a juvenile by the contractor shall be documented by a sequentially numbered withdrawal request, signed and dated by the juvenile. This documentation shall be reconciled to the juvenile's ledger monthly. (10-1-99)T

c. A contractor may limit the amount of any withdrawal, if possession of excess monies creates a security problem within the program, or as part of a behavioral management plan. (10-1-99)T

d. If a juvenile's personal funds exceed two-hundred fifty dollars (\$250), the contractor shall open an interest bearing account in the name of the juvenile and the facility and allow the juvenile to invest any portion of that amount in the account. (10-1-99)T

02. Reporting Requirements. A report shall be filed with the Juvenile Management Center by July 31 for the year ending June 30 showing a list of all juvenile account balances, date of admission and, if appropriate, the date of discharge. The personal fund account is subject to review or audit by the Department or its representatives at any time. Any discrepancies in juvenile accounts shall be resolved within fourteen (14) days of notification. (10-1-99)T

03. Transfer Of Personal Funds. (10-1-99)T

a. When a juvenile is discharged from the program, the balance of the juvenile's account minus any funds due the contractor shall be given to and/or mailed to the contractor within thirty (30) days regardless of the reasons for discharge. (10-1-99)T

b. If the juvenile is to be reassigned to another program (including the Juvenile Management Center), a check should be made in the name of the juvenile and forwarded to the new program within seven (7) working days. The contractor must document efforts made, including contacts with the Department, in attempting to locate a juvenile for transfer of funds. When a juvenile cannot be located, those funds held on his behalf are considered to be abandoned after ninety (90) days and shall be remitted to the Department, made payable to the Juvenile Corrections Student Account. The Department will then follow the procedures outlined in the Abandoned Property Act, Section 14-501, et. seq., Idaho Code. The refund check must be accompanied by a list of the juveniles' names and case numbers. (10-1-99)T

04. Claims Against A Juvenile's Account. A contractor shall not require juveniles to pay for services and supplies which are to be provided by the contractor (i.e., toiletries, linen, laundry, drug screens, routine supplies, and lunch money). The contractor shall not access the juvenile's account for damages without following the disciplinary process, as provided in Sections 270 and 271 of these rules. (10-1-99)T

05. Earned Income. The contractor is responsible for maintaining and accounting for money earned by the juvenile. The contractor shall establish a written plan for the juvenile to save at least twenty percent (20%) of his net earnings. The plan shall specify the purpose for which funds saved will be used at program completion -- i.e., deposits on utilities and housing, purchase of tools necessary for employment. Additionally, there shall be a plan for the priority use of the juvenile's earned income to pay court ordered restitution. (10-1-99)T

268. DISCIPLINE OF JUVENILES.

01. Written Policies And Procedures. All residential providers and those non-residential providers offering day treatment services shall have comprehensive written policies and procedures regarding discipline and control, which shall be explained to all juveniles, families, staff, and placement agencies. These policies shall include positive responses for appropriate behavior. They shall include a provision for notice to the juvenile being disciplined, a mechanism for a fair and impartial hearing by a disciplinary board and a process for appeal. The contractor must submit its formal written disciplinary process to the Placement Manager for review and approval. (10-1-99)T

02. Problem Resolution. Disciplinary actions are not the same as the consequences that are spelled out as a part of an individual behavioral treatment plan for the juvenile. A contractor shall make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile. (10-1-99)T

269. CHARACTERISTICS OF THE FORMAL DISCIPLINARY PROCESS.

01. Prior To Initiating A Report Or Disciplinary Action. Prior to initiating a report or disciplinary action, careful attention should be given to the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. (10-1-99)T

02. Control Of Juveniles. Staff will make every effort to maintain control of juveniles through methods of positive reinforcement. (10-1-99)T

03. Discipline. Discipline will be administered in a way to create a learning experience for the juvenile, and never is a way that degrades or humiliates a juvenile. (10-1-99)T

04. Other Juveniles. No juvenile shall supervise nor carry out disciplinary actions over another juvenile. (10-1-99)T

05. Prohibitions. The contractor is prohibited from using the following actions as disciplinary responses: (10-1-99)T

- a. Corporal punishment of any kind; (10-1-99)T
- b. Physical exercise or repeated physical motions; (10-1-99)T
- c. Denial of meals; or (10-1-99)T
- d. Denial of the following usual services: (10-1-99)T
 - i. Education, vocational services and employment; (10-1-99)T
 - ii. Medical services; and/or (10-1-99)T
 - iii. Communication with family, probation officer, or legal counsel. (10-1-99)T

270. RESTITUTION.

01. Responsibility. It is the policy of the Department to hold juveniles responsible for the financial consequences of their actions by authorizing restitution as part of the disciplinary process. Restitution owed by the juvenile because of court order shall be paid by the juvenile at a rate higher than that discussed herein, but at a rate appropriate for the circumstances of that juvenile. If, during the course of the juvenile's placement with contractor, restitution to the contractor, separate and apart from that restitution owed to the original victim, becomes an issue, the following guidelines apply. (10-1-99)T

02. Basis For Restitution. Restitution may be ordered as part of the disciplinary process when a juvenile has willfully damaged or destroyed property, has caused or attempted to cause injury to himself, other juveniles or staff resulting in expenses being incurred, and/or has a pattern of falsely alleging injury or illness with the result that medical expenses are incurred. (10-1-99)T

03. Actual Cost Restitution. "Actual Cost" restitution may be imposed when property is destroyed and when an incident results in outside medical care for staff or juveniles. (10-1-99)T

04. Satisfaction Of Claim. In no instance shall a contractor withdraw all funds in a juvenile's account to satisfy a restitution claim. (10-1-99)T

05. Collection Of Restitution. All juveniles shall be afforded an administrative hearing in accordance with the disciplinary procedure of the facility and standards set forth in these rules. (10-1-99)T

06. Juvenile's Personal Funds. Funds for restitution may be withdrawn from the juvenile's personal funds not to exceed one-half (1/2) the total in the account. The juvenile's personal needs allowance can be used to pay restitution only with the juvenile's agreement. Should the juvenile not agree and has no other funds available, then a plan must be developed by the contractor to assist the juvenile in earning the amount of restitution. (10-1-99)T

07. Payment Plan. If a juvenile owes more in restitution than he is able to pay immediately, program staff shall help him develop a payment plan. (10-1-99)T

271. APPEAL OF DISCIPLINARY PENALTIES.

Each contractor shall have a formal written process through which a juvenile can appeal a disciplinary action and receive a review of his case. The contractor shall explain to the juvenile how to use the appeal process. The juvenile must be informed that in any event he may include his District Juvenile Services Coordinator in the disciplinary process. (10-1-99)T

272. FOOD SERVICE.

Juveniles shall be served a varied and nutritionally adequate diet with menus meeting standards set by a qualified nutritionist or dietician to ensure that they meet nationally recommended allowances for basic nutrition. Juveniles must be fed three (3) meals daily in accordance with licensure regulations. (10-1-99)T

273. TRANSPORTATION.

01. Transportation For Treatment Plan. It shall be the responsibility of the contractor to provide all transportation associated with the juvenile's Individual Treatment Plan. (10-1-99)T

02. Transportation For Court Proceedings. It is the responsibility of the Department to assure the juvenile's appearance in all court proceedings and to arrange transportation as indicated. (10-1-99)T

274. REIMBURSABLE PROGRAM RELATED EXPENSES.

The Department will reimburse the contractor for certain program-related expenses according to the following terms: (10-1-99)T

01. Provided Services. The item or service must be provided to promote the health, well-being, and/or treatment goals of the juvenile. (10-1-99)T

02. Availability. The item or service is not available through any other source, including the family of the juvenile. (10-1-99)T

03. Cost. The cost of the item or service is not specifically funded by the per diem paid to contractor, nor uses the cost of other items or services submitted by the contractor for the purpose of any part of a per diem rate. (10-1-99)T

04. Prior Approval. The contractor has obtained prior approval from the Department Director or his designee to make the expenditure. (10-1-99)T

275. EXAMPLES OF REIMBURSABLE EXPENSES.

Each item or service submitted for reimbursement will be reviewed on a case-by-case basis, and the criteria will be applied individually. Examples include the following: (10-1-99)T

01. Non-Routine/Medical Services And Medication. Non-routine medical procedures and non-routine medication must be authorized in advance by JMC's lead R.N. or designee. The Department will reimburse the contractor for medications and/or health care items/services based on the following criteria: (10-1-99)T

a. The item or service is prescribed by a physician; (10-1-99)T

b. The item or service is directly related to the health and well-being of the client; (10-1-99)T

c. The item or service is denied reimbursement by Medicaid in writing; or (10-1-99)T

d. The item or service is directly related to treatment of an existing condition and is not preventative, elective or discretionary treatment. (10-1-99)T

02. School Expenses. Prior approval is required before the reimbursement of school expenses. The Department will reimburse the contractor for certain expenses directly related to educational or vocational services. Reimbursement shall not include the routine purchase of school supplies, paper, pencils, pens, notebooks, workbooks, lunch fees, etc. Program related expense reimbursement for educational and vocational expenses will be limited to those items not included in the per diem rate and may include expenses such as the following: (10-1-99)T

a. Tuition for approved course work, vocational education or required summer school; (10-1-99)T

b. Certain fees; (10-1-99)T

c. Tools, text books, supplies, and special clothing required by vocational courses; or (10-1-99)T

d. The vocational student will be required to apply for and been denied financial assistance from state and federal programs or vocational rehabilitation. Justification that these expenses are not refundable through any other sources may be required. (10-1-99)T

03. Reimbursement For Mileage. The cost of transportation that is necessary due to extraordinary or extenuating circumstances that arise during the course of a juvenile's treatment program may be borne by the Department under the following circumstances: (10-1-99)T

a. Transportation of the juvenile is not part of the routine services provided by the contractor for which they are reimbursed at the state's per diem rate; or (10-1-99)T

b. The transportation required is to meet a specific unplanned or extraordinary need of the juvenile. (10-1-99)T

04. Reimbursement Rates. Mileage rates will be based on the Idaho State Travel Policies and Procedures. (10-1-99)T

276. MONITORING MOVEMENT OF JUVENILES.

Juveniles in contract placements are in the legal custody of the Department. The Department has a responsibility both to the court of jurisdiction and to the public to know the location of these juveniles at all times. The contractor shall follow a written plan to allow staff in residential and non-residential alternative programs to monitor movement into and out of the facility. Program staff shall be able to account for the whereabouts of its participants at all times.

(10-1-99)T

277. ESCAPE.

01. Notification. In all instances the facility shall immediately notify the Juvenile Management Center switchboard, local law enforcement, the juvenile's probation officer, and shall attempt to contact the parent/guardian of the resident. (10-1-99)T

02. Maintenance Of Belongings. Clothing and other personal belongings shall be secured immediately and maintained in a secure place until returned to the Department. (10-1-99)T

03. Program Assignment. The contractor shall not discharge a juvenile at the time of an escape. The juvenile shall continue to be assigned to the program, although not physically present for two (2) days. The program must accept the juvenile back if apprehended and returned to the program within two (2) days. The program will be reimbursed for the days the juvenile was on escape status up to two (2) days. Should the program choose to discharge the juvenile after his return, then the procedures outlined in Section 230 or 231 of these rules shall apply. A juvenile on escape status may be discharged at the request of the Placement Manager within the two (2) days. The date of discharge shall be established by the Department. (10-1-99)T

04. Disciplinary Sanctions. All contractors providing residential care for adjudicated juveniles in the custody of the Department shall have established, in written policy and procedure, a range of disciplinary sanctions for imposition against the juvenile, and a plan for providing additional security when dealing with juveniles who have escaped from, and been returned (even temporarily), to the facility. (10-1-99)T

05. Reassignment of Juvenile. The Department considers all escapes as serious challenges to the "Balanced Approach" goal of community protection. In every case of escape, the Department will consider (taking into consideration input from the provider and the juvenile's probation officer), the necessity of reassigning the juvenile to a more restrictive level of custody. (10-1-99)T

06. Reassessment. In every escape in which the juvenile is away for ten (10) days or longer, or in which there is a felony charge other than that for the escape itself, or in which there was use of threat, force, violence or vehicular chase, the juvenile will be returned to the secure unit at Juvenile Management Center for reassessment and sanction. (10-1-99)T

278. ROUTINE SEARCHES.

01. Facility Program. Searches should be a part of every facility's program and should be conducted on a routine basis. The primary objective for a search is to ensure the safety of all juveniles, staff, and visitors.

Searches shall be completed in the least intrusive manner possible for the type of search being conducted. (10-1-99)T

02. Policies And Procedures Governing Searches. The program shall maintain and make public written policies and procedures for conducting searches of residents, all areas of the facility, staff and visitors to the program to control contraband and/or locate missing property. It is suggested that a sign be posted notifying visitors of the specific policy of the facility regarding searches. (10-1-99)T

03. Policies And Procedures Governing Consequences. The facility shall also have written policy and procedures establishing the consequences for residents found with contraband. The resident should acknowledge, with their signature, that they were informed of what constitutes contraband and also the consequences for its possession. (10-1-99)T

279. FACILITY SEARCHES.

In order to ensure the safety of residents, staff and visitors, periodic facility searches for contraband shall be conducted. The frequency and extent of whole facility and ground searches should be consistent with program policies and can be included during other routine inspections or activities. Searches shall be conducted by staff trained in the appropriate search techniques. Searches called by the facility staff do not have to include the entire facility but can be limited to specific areas or residents. The residents' belongings shall be disturbed no more than necessary during the search. The search shall be documented in terms of who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the District Juvenile Services Coordinator will be notified and it shall be reported according to the requirements of the Department. If necessary, the appropriate law enforcement agency should be notified. (10-1-99)T

280. PERSONAL ITEMS, ETC.

Routine searches of suitcases and/or personal items being introduced into the facility will be conducted by facility staff prior to the juvenile taking possession of his property, or when the juvenile is returning to the facility from a home pass. Search of a juvenile's belongings may be done at any time and shall be as least intrusive as possible. All searches shall be documented in the facility log and, if contraband is found, reported in accordance with Section 285 of these rules. If necessary, the appropriate law enforcement agency shall be notified. (10-1-99)T

281. RESIDENT PAT DOWN SEARCHES.

01. Necessity. Pat down searches of residents may be conducted whenever the facility feels it is necessary to discourage the introduction of contraband into the facility, or to promote the safety of staff and other residents. A pat down search may be used when a juvenile is returning from a visit or outside appointment or activity when there is reason to believe contraband is on his person. (10-1-99)T

02. Pat Down Searches Are Conducted As Follows: (10-1-99)T

- a. The search shall be conducted by staff trained in proper search techniques; (10-1-99)T
- b. The search shall be conducted by a staff member of the same sex as the juvenile being searched, and shall be in the presence of another staff member; (10-1-99)T
- c. The juvenile is told he is about to be searched; (10-1-99)T
- d. The juvenile should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets; (10-1-99)T
- e. The staff person shall then pat the outer clothing of the juvenile using only enough contact to conduct an appropriate search; (10-1-99)T
- f. If the staff member finds a bulge, odd shaped lump, etc., the juvenile shall be asked to identify the item and appropriate steps should be taken to remove the item for inspection; and (10-1-99)T
- g. If the resident refuses to comply, the facility Director will be notified immediately. (10-1-99)T

03. Documentation. All pat down searches shall be documented in the facility log. A written report shall be completed when contraband is found and reported to the District Juvenile Services Coordinator. If necessary, the appropriate law enforcement agency shall be notified. (10-1-99)T

282. RESIDENT STRIP SEARCHES.

01. Resident Strip Searches. Strip searches may be performed by facility staff, only after a pat down search, whenever there is reasonable suspicion to believe that weapons or contraband may be found through additional searches. Strip searches shall be authorized by the facility Director or his designee. The following are steps to conduct a strip search: (10-1-99)T

- a. A strip search shall be conducted by two (2) staff members of the same sex as the juvenile who is being searched; (10-1-99)T
- b. A strip search shall be performed in an area that ensures the privacy and dignity of the juvenile; (10-1-99)T
- c. Have the juvenile remove all clothing and move away from the articles; (10-1-99)T
- d. DO NOT TOUCH the juvenile; (10-1-99)T
- e. Have the juvenile run his hands through his hair; (10-1-99)T
- f. Search clothing carefully and return it to the juvenile; and (10-1-99)T
- g. Body cavity searches are not to be conducted by facility staff. (10-1-99)T

02. Documentation. All strip searches are to be documented in writing and, if contraband is found a written report shall be completed and given to the District Juvenile Services Coordinator. If necessary, the appropriate law enforcement agency will be notified. (10-1-99)T

283. VISITOR SEARCHES.

01. Visitor Rules. Prior to a visitor being allowed in the facility they shall be given rules established by the facility that govern their visit and advised that they may be subject to a search. They shall sign a statement of receipt of these rules and it shall be placed in the facility's file. Visitors may be required to submit packages, handbags and briefcases for inspection by trained staff. If there is reason to believe that additional searches are necessary, admission to the facility shall be denied. (10-1-99)T

02. Facility Log. All visitor searches shall be documented in the facility log. When contraband is found a written report shall be completed and given to the District Juvenile Services Coordinator. If necessary, the appropriate law enforcement agency will be notified. (10-1-99)T

284. STAFF SEARCHES.

01. Staff Rules. All staff members shall receive rules that govern what is considered contraband in the facility. They will sign a statement saying they have read the rules and it will be placed in their personnel file. The facility Director may authorize a search of a staff person's belongings and/or a pat down search to follow guidelines previously established. Refusal to comply with the search, or possession of contraband, if contraband is found, shall be handled by the facility Director in accordance with the facility's rules and regulations that govern employees. (10-1-99)T

02. Documentation. All staff searches shall be documented in writing and will be reported to the District Juvenile Services Coordinator. If necessary, the appropriate law enforcement agency shall be notified. (10-1-99)T

285. CONTRABAND DISPOSAL.

All contraband found in the possession of residents, visitors or staff shall be confiscated by staff and secured under lock and key in an area inaccessible to residents. Local law enforcement shall be notified in the event illegal drugs, paraphernalia, or weapons are found. It shall be the responsibility of the facility Director, in consultation with the Department, to dispose of all contraband not confiscated by police. Visitors who bring in items that are unauthorized but not illegal will have these items taken and locked in an area inaccessible to the residents during the visit. The visitor will get these items back upon their exit from the facility. Disposal and reporting of all contraband shall be in accordance with Department Rule. (10-1-99)T

286. DRUG SCREENS.

Drug screens may be done randomly or on an as needed basis at the contractor's expense with the approval of the facility Director. A record shall be kept of all drug screens and their results. A positive drug screen shall immediately be reported to the District Juvenile Services Coordinator supervising the case. (10-1-99)T

287. USE OF FORCE.

01. Minimal Use. Only the minimal use of force required to control destructive behavior shall be used. (10-1-99)T

02. Physical Force. Physical force shall never be used as punishment. (10-1-99)T

03. Documentation. All use of force shall be documented in writing, dated, and signed by staff reporting the incident. The documentation shall be submitted to the facility Director with a copy to remain on file for review by the Department. (10-1-99)T

04. Inappropriate Force. Section 16-1619, Idaho Code, mandates that all instances of suspected use of inappropriate force by staff shall be reported to the Department of Health and Welfare, and/or law enforcement within twenty-four (24) hours of the incident. Use of inappropriate force shall be reported immediately as an unusual occurrence to the Department. (10-1-99)T

288. PASSIVE PHYSICAL RESTRAINT.

01. Resident Control. Passive physical restraint constitutes a use of force but may be used to control a resident whose behavior may cause injury to staff, another resident, or himself. In certain instances, passive physical restraint may be used to prevent a juvenile from escaping from custody and to prevent damage to property. (10-1-99)T

02. Policies. In these instances, personnel may be required to justify their use of force before a state regulatory agency or a court of law. The facility shall have written policies regulating the use of any form of restraint, and all staff who would be in a position to use physical restraints shall have received training in non-violent crisis intervention and/or techniques of passive restraint. (10-1-99)T

03. Prior Approval. A program shall not use any form of physical, mechanical, or chemical restraint other than passive physical restraint without prior written approval of the Department. (10-1-99)T

289. ROOM RESTRICTIONS.

The facility shall have written policies and procedures regulating the use of the juvenile's room for "room restriction". The policy shall ensure that there are procedures for recording each incident involving the use of restriction. The reason for the room restriction is explained to the resident and he has an opportunity to explain the behavior. Other less restrictive measures have been applied prior to the restrictions. Residents in room restriction shall have access to the bathroom. Staff shall check on a resident in room restriction a minimum of once every fifteen (15) minutes. Room restriction may only be used in an unlocked area. Room restriction shall not exceed a total of eight (8) hours. (10-1-99)T

290. BATTERY ON STAFF.

All instances of battery committed on staff shall be documented and, whenever appropriate, charges will be filed with appropriate authorities. Each such incident shall be reported to the Department. (10-1-99)T

291. SUICIDE PRECAUTIONS.

All contractors must have a plan for responding to juveniles who present a risk of suicide. The procedure shall, at a minimum, include a process for determination or assessment of suicidal behavior and risk, a procedure for contacting appropriate health authorities and the Department, and a plan of direct supervision of a juvenile until a suicide crisis has ended. (10-1-99)T

292. JUVENILES' RIGHTS AND RESPONSIBILITIES.

It is the responsibility of the facility (with assistance from the Department when needed) to explain to each juvenile in placement what their rights are and what has been forfeited as a result of being placed in custody. Each juvenile should be advised specifically of his rights and responsibilities outlined in Appendix A. A signed copy should be filed in the juvenile's case record. (10-1-99)T

293. LETTERS.

01. Restrictions. Juveniles shall be allowed to send and receive letters from all persons, including persons in other programs or institutions, unless specifically prohibited by the Department. All restrictions of mail shall be documented in the juvenile's Individual Treatment Plan. There shall be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. (10-1-99)T

02. Inspection Of Outgoing Letters. (10-1-99)T

a. Outgoing letters are to be posted unsealed and inspected for contraband. (10-1-99)T

b. EXCEPTION: Outgoing "privileged" mail may be posted sealed and may not be opened, except with a search warrant, as long as it can be confirmed to be to an identifiable source. For purposes of this regulation "an identifiable source" means that the official or legal capacity of the addressee is listed on the envelope and that the name, official or legal capacity, and address of the addressee has been verified. Possible identifiable sources are the following: (10-1-99)T

i. Court(s); and (10-1-99)T

ii. Attorney(s); and (10-1-99)T

iii. District Juvenile Services Coordinator, and/or Director of the Department of Juvenile Corrections; and (10-1-99)T

iv. Other state and federal departments, agencies and their officials; and (10-1-99)T

v. Members of the press. (10-1-99)T

c. Upon the determination that the mail is not identifiable as privileged mail, said mail shall be opened and inspected for contraband. (10-1-99)T

03. Inspection Of Incoming Letters. Letters from the following identifiable sources must be opened by the juvenile to whom it is addressed and may be inspected for contraband only in the resident's presence: (10-1-99)T

a. Court(s); and (10-1-99)T

b. Department officials and probation and parole officials; and (10-1-99)T

c. Prosecuting attorney(s); and (10-1-99)T

d. Other attorney(s); and (10-1-99)T

e. Members of the press; and (10-1-99)T

f. State and federal agencies and officials. (10-1-99)T

04. Reading Of Letters. Routine reading of letters by staff is prohibited. Contractor may determine that reading of a juvenile's mail is necessary to maintain security, order or program integrity, but such reading of mail must be documented and a copy of this documentation shall be kept for review by the District Juvenile Services Coordinator. (10-1-99)T

294. STATIONERY AND STAMPS.

Indigent juveniles will be provided with sufficient stationery, envelopes and postage for all legal and official correspondence and for at least two (2) personal letters each week. (10-1-99)T

295. PACKAGES.

All packages shall be inspected for the purpose of discovering contraband. (10-1-99)T

296. PUBLICATIONS.

Books, magazines, newspapers and printed matter which may be legally sent to juveniles through the postal system shall be approved, unless deemed to constitute a threat to the security or integrity of the programs. (10-1-99)T

297. WITHHOLDING OF CORRESPONDENCE.

If it is determined that any letters or publications passed through the mail illegally or that its presence within the program would present a threat to the security or integrity of the facility, it may be withheld. This decision is made by the facility Director. The decision and reasons for withholding correspondence shall be discussed with the juvenile and documented in the juvenile's case file. The juvenile has the right to appeal this decision to the District Juvenile Services Coordinator. (10-1-99)T

298. RESTRICTIONS ON CORRESPONDENCE.

All juveniles, regardless of status, shall be allowed to receive approved correspondence. However, a juvenile may have the privilege of originating correspondence limited to communications with the court(s), parent/guardian, the Department, and legal counsel while on restriction if deemed to be in the juvenile's best interest by the facility Director. The juvenile has the right to appeal this decision to the District Juvenile Services Coordinator. (10-1-99)T

299. COLLECTION AND DISTRIBUTION OF MAIL.

The collection and distribution of mail is never to be delegated to a juvenile. Neither is the mail to be dropped on a table or other convenient location for each juvenile to come and look for his own. Mail shall be delivered promptly to the juvenile to whom it is addressed. (10-1-99)T

300. VISITATION.

The contractor shall develop written rules governing visiting at the facility and shall provide a copy to each juvenile, his parent or guardian, and the District Juvenile Services Coordinator. In all cases, the contractor will screen potential visitors and approve or disapprove their visiting of the juvenile in accordance with the facility's criteria. The juvenile's probation officer should, if possible, be consulted in this process. (10-1-99)T

301. PERSONAL SAFETY.

01. Responsibility. Every juvenile has the fundamental right to feel safe. Contractors have the responsibility to ensure that juveniles are safe while in their care. Every juvenile shall be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile does not feel safe. (10-1-99)T

02. Periodic Contacts. The facility Director should make periodic contact with juveniles in the program to determine if they feel safe and are comfortable when interacting with peers and staff. (10-1-99)T

302. SMOKING/SALE OF CIGARETTES.

01. Sale/Purchase. Idaho law prohibits the sale of cigarettes to persons under eighteen (18) years of age. It also prohibits minors from purchasing tobacco products. The Department cannot approve any practices that are

prohibited by law.

(10-1-99)T

02. Written Policies. Every facility/program shall establish written policies and procedures banning the use of cigarettes and other tobacco products by juveniles at the facility. Recognizing that many juveniles may need help to stop smoking, the provider shall assist the juvenile in obtaining additional services to address this problem.

(10-1-99)T

303. GRIEVANCE PROCEDURES.

01. Written Procedures. Each program shall have a written grievance procedure for juveniles (which includes the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available to them). It shall be written in a clear and simple manner and shall allow juveniles to make complaints without fear of retaliation.

(10-1-99)T

02. Grievance Forms. The grievance procedure shall be explained to the juvenile by a staff member who shall enter a note into the juvenile's file confirming the explanation. Grievance forms shall be in a location accessible to juveniles without having to request such a form from staff. Completed forms should be placed in a secure area until collected and not accessible to staff or other residents. A copy of the grievance shall be provided, as soon as possible to the District Juvenile Services Coordinator.

(10-1-99)T

304. RESEARCH.

01. Written Policies. Residential and non-residential alternative programs shall have written policies regarding the participation of youth in research projects. Policy shall prohibit participation in medical or pharmaceutical testing for experimental or research purposes.

(10-1-99)T

02. Voluntary Participation. Policy shall govern voluntary participation in non-medical and non-pharmaceutical research programs.

(10-1-99)T

305. PROVISION OF MEDICAL SERVICES.

01. Medical Consent. Each juvenile shall be provided with routine and emergency medical, dental, and/or mental health services while in the contractor's care. As part of the admission process, the contractor shall secure a medical consent authorization form signed by a juvenile's parent, guardian, or committing authority. The consent form shall be filed in the juvenile's case record at the facility.

(10-1-99)T

02. Emergency Medical Treatment. In cases of non-routine or emergency medical treatment requiring signed authorization for juveniles in the custody of the Department, reasonable efforts must be made to obtain the consent of the parent or guardian. Should the parent or guardian not be available or refuse to sign, the authorization shall be signed by the Placement Manager or his designee. This does not restrict the contractor taking the action needed to ensure the health of the juvenile.

(10-1-99)T

03. Medical Service Agreements. Each contractor shall have an agreement with a licensed general hospital, clinic or physician, and dentist to provide juveniles with routine and emergency services on a twenty-four (24) hour basis. Emergency medical care shall be provided in a public hospital or in a facility which accepts Medicaid reimbursement.

(10-1-99)T

04. Reimbursement Sources. The contractor shall be responsible for assuring that private insurance and/or Medicaid, or any other benefits are accessed, if available, for funding medical, dental and/or mental health services and pharmaceutical products for any juvenile.

(10-1-99)T

306. ACCESS TO EMERGENCY SERVICES.

The contractor shall have a written plan for providing access to twenty-four (24) hour emergency medical and dental care. It shall define the circumstances which constitute a medical emergency and shall include instructions to staff regarding their conduct once the existence of a medical emergency is suspected or has been established. The plan shall include arrangements for transportation, use of hospital emergency rooms or other appropriate health facilities, and emergency on-call physician and dental services when a health facility is not readily accessible in a nearby

community. (10-1-99)T

307. TRAINING.

01. Health-Related Emergencies. Juvenile care workers and other staff shall be trained to respond to health-related emergencies. At all times at least one (1) staff member on duty must be qualified to administer first aid and cardiopulmonary resuscitation (CPR). All staff who may be alone with juveniles on any shift shall obtain and maintain certification for both first aid and CPR before being allowed on a shift alone. (10-1-99)T

02. Minimum Training. Training shall include, at a minimum, the following: (10-1-99)T

a. Recognition of signs and symptoms of physical illness and knowledge of action required in emergency situations; (10-1-99)T

b. Signs and symptoms of mental illness, suicide risk, retardation, chemical use and/or dependency; (10-1-99)T

c. Methods of obtaining assistance, including emergency medical back-up plans; and (10-1-99)T

d. Procedures for transferring juveniles to appropriate medical facilities or health care providers. (10-1-99)T

308. ROUTINE MEDICAL/DENTAL TREATMENT.

01. Prior Approval. No prior approval or review is required for routine medical and/or dental services. (10-1-99)T

02. Routine Services. Examples of routine medical/dental services for which no prior approval or review is required, are: (10-1-99)T

a. Admission physical exams, including STD exams and treatment, as well as PAP smears. (10-1-99)T

b. Admission dental exams, including x-rays (no Panorex), and cleanings. (10-1-99)T

c. Admission eye exams and glasses, if needed. (10-1-99)T

d. Annual physical exams, including STD exams and treatment, PAP smears. (10-1-99)T

e. Annual dental exams with x-rays (no Panorex), and cleanings. (10-1-99)T

f. Annual eye exams, if needed. (10-1-99)T

g. URI - upper respiratory infections with doctor visit and routine course of antibiotics. (10-1-99)T

h. UTI - urinary tract infections with doctor visit and routine course of antibiotics. (10-1-99)T

i. Routine medication checks - with no change in medication regime. (10-1-99)T

j. Acne - doctor visit with over the counter medication prescribed. (10-1-99)T

309. MEDICAL HISTORY AND RELATED TREATMENT.

01. Admission To Program. Medical information shall be obtained immediately upon a juvenile's admission to the program by a person trained by a recognized health authority. The health screening evaluation report shall be filed in the juvenile's facility file. The evaluation shall include the following information: (10-1-99)T

- a. Whether the juvenile is presently on medication; (10-1-99)T
- b. Whether the juvenile has a current medical or dental complaint; (10-1-99)T
- c. Medical and dental conditions for which the juvenile has received treatment in the past; (10-1-99)T
- d. The juvenile's general appearance and behavior; (10-1-99)T
- e. Physical deformities; and (10-1-99)T
- f. Evidence of abuse and/or trauma. (10-1-99)T

02. Identified Medical Needs. Identified medical, dental and/or mental health needs shall be addressed through referral to an appropriate health care service as approved in writing by the Juvenile Management Center. (10-1-99)T

310. PHYSICAL AND DENTAL EXAMINATIONS.

A physical examination shall be done on a juvenile within thirty (30) days of admission to the facility. A dental examination shall be done on a juvenile within sixty (60) days of admission to the facility. Additionally, a routine medical and dental examination shall be provided to each juvenile annually between the date of admission and the date of discharge from the facility. (10-1-99)T

311. FIRST AID KITS.

01. Accessibility. First aid kits shall be kept locked and shall be placed in an area of the facility readily accessible to facility workers. Each kit shall include, at a minimum, the following: (10-1-99)T

- a. Latex gloves; (10-1-99)T
- b. Rolled gauze; (10-1-99)T
- c. Sponges; (10-1-99)T
- d. A triangle bandage; (10-1-99)T
- e. Band-aids; (10-1-99)T
- f. Instruction pamphlets for first aid; (10-1-99)T
- g. Salves and other over-the-counter medication approved by a recognized health authority; (10-1-99)T
- h. Antiseptic lotion; (10-1-99)T
- i. Note paper and pencil; (10-1-99)T
- j. Blunt end scissors, safety pins, and tweezers; (10-1-99)T
- k. Ammonia inhalant; and (10-1-99)T
- l. CPR mask or barrier. (10-1-99)T

02. Contents. The contents, location and use of first aid kits shall be reviewed annually with all staff. The content of the kits shall be inventoried monthly. (10-1-99)T

312. NON-ROUTINE MEDICAL/DENTAL TREATMENT.

Where it has been determined by a duly qualified and licensed physician that non-routine medical or dental care is required, reasonable effort will be made by the contractor to obtain approval of the juvenile's parent or guardian. The matter shall be submitted to JMC's lead R.N. or designee for review and direction. Prior written approval must be obtained from the Placement Manager or designee before proceeding with non-routine medical or dental treatment. Any non-routine medical or dental treatment, other than emergency treatment, which was not approved in advance will be at the expense of the contractor. (10-1-99)T

313. NOTIFICATION OF SERIOUS ILLNESS, SEVERE BODILY INJURY OR SEVERE PSYCHIATRIC EPISODE.

The contractor shall immediately report the incident of severe bodily injury, incidents of serious illness and severe psychiatric episodes to the juvenile's parents, JMC and the District Juvenile Services Coordinator. (10-1-99)T

314. COMMUNICABLE DISEASES.

01. Policies. The health authority, i.e., the physician health administrator of an agency responsible for the provision of health care services to the contractor, shall establish policies and procedures for serving juveniles with infectious diseases such as tuberculosis, hepatitis-B, and AIDS. These policies and procedures should address the management of communicable diseases and provide an orientation for new staff and juveniles concerning the diseases and ongoing education for staff and juveniles regarding these diseases. Counseling should be provided for those who have been diagnosed as being HIV positive. Policies and procedures should be updated as new information becomes available. (10-1-99)T

02. Testing. In accordance with law, a juvenile may request that he be tested for the presence of HIV. Any juvenile requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. (10-1-99)T

03. Examinations. Examinations shall be performed on juveniles by proper medical authorities for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and venereal disease. Juveniles will be tested and, if indicated, treated. (10-1-99)T

04. Medical Information. Staff shall be provided information about a juvenile's medical condition only when that knowledge is necessary for the performance of their job duties. The health authority shall determine policies regarding any necessary labeling of files for staff protection, protection of other juveniles, or proper treatment for the juvenile. (10-1-99)T

05. Confidentiality. Confidentiality shall be maintained. (10-1-99)T

315. PREGNANCY.

01. Individual Treatment Plan. An Individual Treatment Plan goal and objectives will be developed when a pregnancy has been diagnosed. The plan shall be based on the orders of the juvenile's community obstetric physician and shall include special care, regular medical check-ups, and special dietary and recreational needs. (10-1-99)T

02. Parenting Classes. Parenting classes shall be an integral part of the Individual Treatment Plan for all pregnant females in care. This service should also be offered as a priority to young men in care who are already fathers or whose spouse/girlfriend is expecting a child. (10-1-99)T

03. Medicaid Reimbursement. Medical services relating to pregnancy shall be provided by a physician/hospital accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile's family. (10-1-99)T

04. Infant Care. When an infant is delivered and the mother requires continued residential care, the infant shall be placed with an appropriate family member or in the temporary care of the Department of Health and Welfare FACS Division. (10-1-99)T

316. REFUSAL OF TREATMENT - JUVENILES OVER EIGHTEEN YEARS OF AGE.

If a juvenile over eighteen (18) years of age chooses to refuse necessary treatment or medication, as recommended by a physician, the juvenile shall sign a statement refusing to submit to treatment. A staff member shall witness the juvenile's signature. This form shall be filed in juvenile's case record. The contractor shall notify the District Juvenile Services Coordinator immediately whenever a juvenile refuses treatment. (10-1-99)T

317. REFUSAL OF TREATMENT - JUVENILES UNDER EIGHTEEN YEARS OF AGE.

When a juvenile is under eighteen (18) years of age and refuses treatment and/or medication for a condition which poses a significant risk of death or permanent physical impairment, the contractor shall issue its approval for the immediate administration of the medical procedure or medication in accordance with standard practice. (10-1-99)T

318. USE OF PHARMACEUTICAL PRODUCTS.

A program shall have written policies and procedures governing the use and administration of medication to juveniles. Policies should conform to all applicable laws and regulations including, but not limited to those of the Department of Health and Welfare. If initiating any medication scheme, or modifying a scheme once developed JMC's lead R.N. must be notified. (10-1-99)T

01. Prescription Medications - Non-Psychotropic. The contractor shall notify JMC's lead R.N., the youth's parent(s) (to the extent possible) within three (3) working days when a non-psychotropic prescription medication is given to a youth. The notice shall include the name of the medication being given, the dosage, frequency, and duration the medication will be given, and the reason the medication was prescribed. (10-1-99)T

02. Psychotropic Medication - Intent To Administer Medication. The contractor shall notify JMC's lead R.N., the youth's parent(s) and the probation officer within three (3) working days of the intent to administer psychotropic medication, and allow the parent(s) five (5) days to respond. The notice of intent to administer psychotropic medication shall include: (10-1-99)T

- a. The name of the medication that has been recommended for prescription; (10-1-99)T
- b. Notification to the parent(s) that they have five (5) days from the date of mailing to consent or refuse to consent to the administration of the medication; (10-1-99)T
- c. A place for the parent(s) to sign if they consent; (10-1-99)T
- d. A place for the parent(s) to indicate if they are refusing consent; (10-1-99)T
- e. Notification to the parent(s) that if a response is not received within five (5) days of the date of mailing of the notice, it will be interpreted as though written consent were received; and (10-1-99)T
- f. The name and phone number of the doctor, or his designee, who can explain the reason the medication is recommended for prescription and any possible side effects. (10-1-99)T

03. Reason For Administering Medication. The contractor shall have staff available to explain to parents and the Department's Juvenile Services Coordinator the reason for making a referral to a physician who has prescribed psychotropic medication. The contractor shall assure that any physician prescribing psychotropic medication is willing to discuss with parents and Department staff the reason the psychotropic medication was prescribed and the potential side effects of the medication. (10-1-99)T

04. Parental Consent. The contractor shall not administer any psychotropic medication without the consent of the youth's parent and the Department's Placement Manager or designee. If the parent refuses to consent and the contractor believes that the medication is imperative to the youth's services, the contractor may request that a staffing be scheduled by the probation officer to determine if alternative consent authority is desirable. Written approval must be obtained from the Placement Manager or designee prior to proceeding with the administration of psychotropic medication. (10-1-99)T

319. NOTIFICATION OF DEATH OF A JUVENILE WHO IS IN THE CUSTODY OF THE DEPARTMENT.

01. Notification. In the event of the death of a juvenile who is in the Department's custody, the contractor shall immediately notify the juvenile's parent or guardian, the Juvenile Management Center and the local coroner. (10-1-99)T

02. Law Enforcement Contact. In the event of sudden death, or if death occurs as a result of a crime or accident, the appropriate law enforcement agency shall be contacted immediately by the program. (10-1-99)T

03. Burial Expenses. Certain burial expenses for indigent families may be paid by the Department. (10-1-99)T

320. MONITORING OF CONTRACT PROGRAMS.

01. Performance Review. All contracts which provide a continuing service to the Department shall have a comprehensive performance review at least once in a twelve (12) month period. This review shall include, but not be limited to, applicable performance standards, operating procedures, reporting requirements, general maintenance and upkeep of the physical plant, staffing patterns, qualifications, and training requirements. All standards by which performance and compliance are to be judged shall be contained or referenced by the contractual agreement. In addition to annual monitoring, more frequent visits may be made to each program to monitor compliance with the contract and ensure that progress is being made on corrective action plans. (10-1-99)T

02. Department File. A facility file shall be maintained in the Department's District Office for each contract program within the district. (10-1-99)T

03. Compliance Monitor. All private providers who contract with the Department of Juvenile Corrections to serve juveniles will be monitored for contract compliance. Contract monitoring of Department providers will include: (10-1-99)T

a. Routine review of operations and practices for compliance with contract terms and the Department's Standard Operating Procedures; (10-1-99)T

b. Investigation and resolution of incidents and concerns regarding matters of safety, security and sound treatment practice; and (10-1-99)T

c. Compilation of an annual evaluation of provider performance. (10-1-99)T

04. Provider Performance. A Quality Assurance Team, appointed by the Department Director, will be primarily responsible for contract monitoring. Members of this team will visit providers at least annually and will be responsible for completing an annual report on provider performance based upon information gathered from completing the Department's Contract Monitoring Outline. Additionally, information will be gathered from other Department staff who work with the provider and from community representatives who have knowledge of the program's operation. (10-1-99)T

05. Written Report. Every site visit by a member of the Quality Assurance Team will result in a written report with a copy forwarded to the provider. Corrective action agreed upon with the provider is to be noted in the report. Providers may contest any finding or recommended corrective action to the Quality Assurance Team leader or to the Department Director. (10-1-99)T

06. Liaison Assistance. The seven (7) Department District Liaisons provide assistance in contract monitoring by visiting contract programs in their respective districts on a monthly basis, and provide contract programs with a Department liaison as they do for the community at large. District Liaisons can also be helpful to providers because of their knowledge of other programs and resources within the district. (10-1-99)T

07. Liaison Review. Although not charged with the responsibility for routinely completing a contract monitoring report, the District Liaison may periodically review a specific area of contract compliance, particularly if

there has been indication of a problem or concern in the area. A record of all such contacts will be maintained in a contract file in the Department's District Office and will be shared with the Quality Assurance Team. (10-1-99)T

08. Notification Of Problem. If a problem is identified in the course of a contract monitoring visit, the provider will be notified as soon as possible. Ideally, this will take place in an exit interview before the respective Department staff leaves the facility/program. Plans for corrective action resulting from an exit interview must be documented in a contract file in the District Office and shared in writing with the Quality Assurance Team. In these cases, the Quality Assurance Team will confirm plans for corrective action in writing with the provider. (10-1-99)T

321. FINANCIAL MONITORING.

The Contract Manager is responsible for monitoring the payments made on contracts to prevent overpayment of the contract. (10-1-99)T

322. INDEPENDENT REVIEWS BY DEPARTMENT STAFF.

The Department may, as the situation warrants, conduct independent reviews of programs and program operations. The program shall cooperate as with any other type of review or monitoring. (10-1-99)T

323. EVALUATION OF PERFORMANCE.

Contractors shall submit an annual written report which shall be due within sixty (60) days after the end of each contract year. The annual report shall reflect the efficiency and effectiveness of services for juveniles served during the program and one (1) year thereafter. Should the Department develop the capacity to collect this data electronically, the Contractor may be required to participate in this process. The performance areas to be addressed in the report should include, but not be limited to the following: (10-1-99)T

- 01. Re-Contact.** Program participants' rate of re-contact with the Juvenile or Criminal Justice System. (10-1-99)T
- 02. Compliance.** Compliance to Referral Policies and/or rejection rate of referrals. (10-1-99)T
- 03. Length Of Stay.** Length of stay. (10-1-99)T
- 04. Treatment Plan Objectives.** Average percentage of treatment plan objectives that are successfully completed at discharge. (10-1-99)T
- 05. Successful Transition.** Number of juveniles successfully making the transition back to regular community schools and/or employment. (10-1-99)T
- 06. Grade Placement.** The program's impact on school grade placement when re-enrollment occurs. (10-1-99)T
- 07. GED/High School Equivalency.** The number of juveniles attaining GEDs or High School Equivalency while enrolled in the program. (10-1-99)T
- 08. Referrals.** The number of juveniles who were referred to, and have participated in, higher education, vocational training, and other community based programs. (10-1-99)T
- 09. Cost Efficiency.** The steps taken to maximize cost efficiency and efficiencies realized. (10-1-99)T
- 10. Escape Rates.** The rate of escapes from the program and return of escaped juveniles to the program. (10-1-99)T
- 11. Restitution.** The rates or amounts of restitution and community service provided by residents. (10-1-99)T
- 12. Victim Restoration.** The efforts made to facilitate victim restoration and successful rates of victim restoration/mediation. (10-1-99)T

324. -- 999. (RESERVED).

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.02 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS,
SECURE JUVENILE DETENTION FACILITIES

DOCKET NO. 05-0102-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 20-504, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rule-making will be scheduled if requested, in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance and purpose of the proposed rulemaking: To update standards for juvenile detention centers in Idaho.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

A review of detention standards indicates the need to update several areas to facilitate use and compliance by local governments, the quality assurance review, and to delete inapplicable or out-dated standards for such things as physical plant.

FEE SUMMARY: There is no fee or charge imposed by this rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because input was solicited and received from affected parties through other means.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Nancy S. Bishop at (208) 334-5100, Ext. 384.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 23rd day of August, 1999.

Nancy S. Bishop
Deputy Attorney General
Department of Juvenile Corrections
PO Box 83720
Boise ID 83720-0285

IDAPA 05
TITLE 01
Chapter 02

05.01.02 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS,
SECURE JUVENILE DETENTION FACILITIES

000. LEGAL AUTHORITY.

01. Section 20-504(2), Idaho Code. Pursuant to Section 20-504(2), Idaho Code, the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention facilities based upon such standards. (10-1-99)T

02. Section 20-504(9), Idaho Code. Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. (10-1-99)T

03. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. (10-1-99)T

04. Section 20-504(14), Idaho Code. Pursuant to Section 20-504(14), Idaho Code, the department, in cooperation with the courts and the counties, shall establish uniform standards, criteria and operating procedures for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers. (10-1-99)T

05. Section 20-531(4), Idaho Code. Pursuant to Section 20-531(4), Idaho Code, the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. (10-1-99)T

06. Section 20-545(1), Idaho Code. Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act. (10-1-99)T

07. Interstate Compact On Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. (10-1-99)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.02, "Rules of the Idaho Department of Juvenile Corrections, Secure Juvenile Detention Facilities," IDAPA 05, Title 01, Chapter 02. (10-1-99)T

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. (10-1-99)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Department of Juvenile Corrections, 400 N. 10th (second floor), P.O. Box 83720, Boise, Idaho, 83720-0285. (10-1-99)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (10-1-99)T

004. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter:

(10-1-99)T

- 01. Adult.** A person eighteen (18) years of age or older. (10-1-99)T
- 02. Body Cavity Search.** The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical authority. (10-1-99)T
- 03. Chemical Agent.** An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (10-1-99)T
- 04. Classification.** A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources. (10-1-99)T
- 05. Contact Visiting.** A program that permits juveniles to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (10-1-99)T
- 06. Contraband.** Any item not issued or authorized by the facility. (10-1-99)T
- 07. Control Center.** The central point within a facility or institution where activities are monitored and controlled. (10-1-99)T
- 08. Commit.** Commit means to transfer legal custody. (10-1-99)T
- 09. Community-Based Program.** An in-home detention program or a non secure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county. (10-1-99)T
- 10. Corporal Punishment.** Any act of inflicting punishment directly on the body, causing pain or injury. (10-1-99)T
- 11. Court.** Means district court or magistrate's division thereof. (10-1-99)T
- 12. Day Room/Multi-Purpose Room.** That portion of the housing unit used for varied juvenile activities which is separate and distinct from the sleeping rooms. (10-1-99)T
- 13. Detention.** Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (10-1-99)T
- 14. Detention Center.** A facility established pursuant to Sections 20-517 and 20-518, Idaho Code. (10-1-99)T
- 15. Detention Facility.** Accommodations for detaining a juvenile for the temporary placement of juveniles who require secure custody for their own or the community's protection in physical restricting facilities. (10-1-99)T
- 16. Direct Care Personnel.** Any care staff member charged with day to day supervision of juveniles housed in a juvenile detention facility. (10-1-99)T
- 17. Director.** The Director of the Department of Juvenile Corrections. (10-1-99)T
- 18. Diversion.** The utilization of local community resources, churches, counseling for the juvenile and/

or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court. (10-1-99)T

- 19. Department.** The Idaho Department of Juvenile Corrections. (10-1-99)T
- 20. Emergency Care.** Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile population by the medical staff, physician, other appropriately trained staff, local ambulance services and/or outside hospital emergency rooms. (10-1-99)T
- 21. Emergency Plans.** Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (10-1-99)T
- 22. Existing Facility.** Any juvenile detention facility in use, or for which bids have been let, prior to the effective date of these Rules. (10-1-99)T
- 23. Facility Records.** Information regarding the maintenance and operation of the facility including but not limited to correspondence, memorandums, complaints regarding the facility, daily activity logs, security and fire safety checks, head counts, medical records, health inspection records, and safety inspection records, use of physical force records and use of restraints records, employee training and certification for use of security equipment. (10-1-99)T
- 24. Health Authority.** The physician, health administrator, or agency responsible for the provision of health care services at an institution or system of institutions; the responsible physician may be the health authority. (10-1-99)T
- 25. Health-Trained Employee.** A person who provides assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and/or reviewing screening forms for needed follow-up; preparing juveniles and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments. (10-1-99)T
- 26. Housing Unit.** The total living area available to a group or classification of juveniles in a detention facility. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/multi-purpose room. (10-1-99)T
- 27. Incident Report.** A written document reporting an unusual occurrence or special event such as the discovery of contraband, use of physical force, use of chemical agents, discharge of firearms, etc., and action taken including notation of strip and cavity searches. (10-1-99)T
- 28. Judge.** A district judge or a magistrate. (10-1-99)T
- 29. Juvenile.** A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (10-1-99)T
- 30. Juvenile Offender.** A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult. (10-1-99)T
- 31. Juvenile Records.** Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. (10-1-99)T
- 32. Legal Custody.** The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. (10-1-99)T

33. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. (10-1-99)T

34. Medical Employee. A certified person such as nurse, physician's assistant, emergency medical technician who works under the supervision and authority of the Health Authority consistent with their respective levels of training, education and experience. (10-1-99)T

35. Medical Records. Separate records of medical examinations and diagnoses maintained by the Health Authority. (10-1-99)T

36. Medical Screening. A system of structured observation/initial health assessment of newly arrived juveniles. May be performed by a Medical Employee or by a Health Trained Employee. (10-1-99)T

37. New Facility. Any facility for which bids are let for construction after the effective date of these Rules. (10-1-99)T

38. Non-Contact Visiting. A program that restricts juveniles from having physical contact with visitors. Physical barriers usually separate the juvenile from the visitors with screens and/or glass. Voice communications between the parties are typically accomplished with phones or speakers. (10-1-99)T

39. Observation And Assessment Program. Any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment. (10-1-99)T

40. Pat Search. The touching or feeling of a subject's clothed body to detect contraband. (10-1-99)T

41. Perimeter Security. A system that controls ingress and egress to the interior of a facility or institution. The system may include electronic devices, walls, fence, patrols and/or towers. (10-1-99)T

42. Perimeter Security Check. Physical inspection of the perimeter of the facility performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the facility and adjacent containment fence or areas as designated by facility policy and procedures. (10-1-99)T

43. Petition For Exemption. A formal written document addressed to the Director of the Department of Juvenile Corrections requesting exception from a Detention Facility Standard. The Petition for Exemption must contain written justification why the petitioner should be relieved from enforcement of specific detention standard(s). (10-1-99)T

44. Physical Assessment. An evaluation of a patient's current physical condition and medical histories conducted by, or under the supervision of, the Health Authority. (10-1-99)T

45. Policy And Procedures. Standard operating strategies and processes developed by the administrative authority governing detention facility operations. (10-1-99)T

a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the personnel must operate. (10-1-99)T

b. Procedure is the detailed and sequential action which must be executed to ensure that policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy. (10-1-99)T

46. Rated Capacity. The actual number of juveniles which may be housed in a particular room, housing unit, or facility based upon available square footage, sanitation fixtures, and other physical plant features

specified in these rules. (10-1-99)T

47. Renovation. The alteration of the structure of any existing juvenile detention facility, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the physical layout of essential areas within the facility or reconstruction of the existing structure, areas, or interior features. (10-1-99)T

48. Restraints. Devices used to restrict physical activity. (10-1-99)T

49. Rule Infraction. A violation of detention center rules of conduct and/or Policies and Procedure as governed by facility Policy and Procedures. (10-1-99)T

50. Safety Equipment. Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms. (10-1-99)T

51. Security Devices. Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain facility security. (10-1-99)T

52. Secure Facility. Any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department. (10-1-99)T

53. Secure Perimeter. The outer portions of a facility that provide for secure confinement of facility residents. (10-1-99)T

54. Staffing Plan. A documented schedule which includes staffing of direct care personnel, staffing ratios, resident activities, and the certification level of staff. (10-1-99)T

55. Strip Search. An examination of a resident's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the individual's clothing while such is not being worn. (10-1-99)T

56. Use Of Physical Force. Physical force used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes. (10-1-99)T

57. Volunteer. A person who donates his time and effort to enhance the activities of the program. Volunteers may be classified into two categories: (10-1-99)T

a. Direct care volunteer. A person serving as unpaid direct care personnel, serving in the same capacity as an employee of the juvenile detention center, having direct and unsupervised contact with juveniles. (10-1-99)T

b. Program Volunteer. An unpaid volunteer, program or organization serving in, or as a program of the juvenile detention center, such as Alcoholics Anonymous, etc., which is constantly supervised by Direct Care Personnel of the juvenile detention center. (10-1-99)T

58. Work Program. A public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior. (10-1-99)T

011. -- 199. (RESERVED).

200. STANDARDS FOR JUVENILE DETENTION FACILITIES.

The Idaho Department of Juvenile Corrections or its designee shall have the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules. (10-1-99)T

201. INSPECTION PROVISIONS.

01. Annual Visits. Each juvenile detention facility shall be subject to announced or unannounced visits by Idaho Department of Juvenile Corrections personnel on at least an annual basis. (10-1-99)T

02. Review Of Logs, Records, Policy And Procedure Manuals, Memorandums And Reports. All logs, records, policy and procedures manuals, memorandums, and reports shall be available for review excluding personnel records and personnel action reports. Idaho Department of Juvenile Corrections personnel shall be allowed to observe and interview juveniles and staff concerning any matter pertaining to these rules. Idaho Department of Juvenile Corrections personnel shall further have access to all parts of the facility for the purpose of inspecting the physical plant. (10-1-99)T

202. DEPARTMENT PREPARED WRITTEN REPORT OR THEIR AGENTS.

Idaho Department of Juvenile Corrections personnel, shall prepare a written report of each inspection within thirty (30) days following such inspection and provide copies to the appropriate facility administrator with copies to the governing body and the county attorney. The report will additionally be submitted to the Director of the Idaho Department of Juvenile Corrections for consideration and review of the issuance or renewal of a license. (10-1-99)T

203. COMPLIANCE WITH STANDARDS ENFORCED.

If upon completion of an inspection, a juvenile detention facility is found to be in violation of any part of these rules, the Idaho Department of Juvenile Corrections shall send notice of such non-compliance to the facility administrator and governing body responsible for the facility. (10-1-99)T

01. Consideration Of Official Notice. Upon receipt of a notice of non-compliance from the Idaho Department of Juvenile Corrections, the facility administrator and governing body shall meet promptly to consider the official notice. Inspection personnel shall be available to advise and consult concerning appropriate corrective action. (10-1-99)T

02. Development Of A Plan Of Corrective Action. The facility administrator and governing body shall develop a plan of corrective action to correct the deficiencies cited in the report. The plan shall include a description of the nature of non-compliance for each Standard cited, the steps to be taken to correct the deficiency, and a projected completion date. The plan shall be submitted to the Idaho Department of Juvenile Corrections for approval. (10-1-99)T

03. Demonstration Of Meaningful Progress Toward Achieving Compliance. Meaningful progress toward achieving compliance according to the submitted plan must be demonstrated during the time frame approved by the Idaho Department of Juvenile Corrections in the corrective action plan. (10-1-99)T

204. CONFORMITY WITH APPLICABLE LAWS AND REGULATIONS.

Juvenile detention facilities shall conform to all applicable public health, safety, and fire codes, building regulations, laws, and regulations set forth by the state of Idaho, the county, and the municipality in which such facility is located. (10-1-99)T

205. STANDARDS COMMITTEE.

A standing committee shall be created for the purpose of reviewing Petitions for Exemption from Standards and Requests for Modification of Standards. The committee will be made up of three committee members: one (1) representative and one (1) alternate from the Detention Center Administrators, one (1) representative and one (1) alternate County Commissioner, and one (1) representative from the Department of Juvenile Corrections. The Standards Committee members and alternates are nominated by the Detention Center Administrators. Final appointment of all Standards Committee members and alternates are made by the Director of the Department of Juvenile Corrections. The Detention Center representative and County Commissioner representative will not be from the same judicial district. Alternates may not be from the same judicial district as their corresponding representative. Committee member's terms will run one (1) year from October 1 to September 30 the following year. The committee is charged with reviewing any Petition for Exemption or Request for Modification to the Standards, researching the subject as necessary, and presenting a written recommended course of action to the Director of the Department of

Juvenile Corrections. If the Petition for Exemption or Request for Modification is initiated from the same district as a committee representative, that committee representative will abstain and the alternate will serve in place of said representative. The Director retains the authority to make the final decision to approve or deny any requests or petitions. (10-1-99)T

01. Petition For Exemption. When an exemption from a Standard is desired, the facility administrator shall submit a request, in writing, to the Idaho Department of Juvenile Corrections outlining the proposed alternative arrangement together with documentation showing how such arrangement will provide conditions at least equivalent to the corresponding Standard. The petition will be forwarded to the Standards Committee for review. The Petition for Exemption, if granted, shall apply only to the petitioner for the specific facility cited. An indemnification agreement will be entered into between the facility and the Department of Juvenile Corrections in the event the Petition for Exemption is granted. (10-1-99)T

02. Requests For Modification Of Standards. In the event a standard becomes obsolete or unworkable, a Request for Modification may be filed with the Director of the Department of Juvenile Corrections. The request letter must represent the views of at least three detention facility administrators and contain their signatures. The letter will be forwarded to the Standards Committee for review and recommendation. The committee will determine if the request needs to be address immediately or can wait for the annual review and make recommendations to the Director. The Director will have the final authority to determine if standards will be changed and the timing of the change. (10-1-99)T

03. Annual Review Of Standards. The Standards Committee will meet at least bi-annually to review the Juvenile Detention Center Standards. Requests for Modification may be considered at this time. If the committee feels a change in standards is warranted, they will submit a written report to the Director of the Department of Juvenile Corrections. The Director will have the final authority to determine if the standards will be changed and the timing of the change. (10-1-99)T

206. -- 209. (RESERVED).

210. FACILITY ADMINISTRATION.

01. Legal Entity. The public or private agency operating a detention facility is a legal entity or part of a legal entity. (10-1-99)T

02. Governing Body. Governing body shall mean any public or private entity established or delegated as a source of legislative or administrative authority to provide the fiscal needs of the facility administrator so that he may carry out the provisions of these rules. (10-1-99)T

03. Facility Administrator. The facility shall have a designated administrator who shall be responsible for all facility operations. (10-1-99)T

04. Mission Statement. The facility shall have a written mission statement which describes its philosophy and goals. (10-1-99)T

05. Policy And Procedures. The facility administrator shall develop and maintain written policies and procedures which shall safeguard the basic rights of juveniles and shall safeguard the juveniles' freedom from discrimination based upon sex, race, creed, religion, national origin, disability, or political belief and establish practices that are consistent with fundamental legal principles, sound correctional practices, and humane treatment. These written policies and procedures shall be reviewed on a regular basis, updated as needed and made available to all facility employees and the governing body. The policy and procedures manual shall submitted to the prosecuting attorney or other legal authority for review as mandated by each facility's and approved by County Commissioners or other governing authority on a regular basis. (10-1-99)T

211. FISCAL MANAGEMENT.

The annual budget request shall provide for an allocation of resources for facility operations and programming. The methods used for collecting, safeguarding, and disbursing monies, including juveniles' personal funds held by the facility, shall comply with accepted accounting procedures and the laws of the state of Idaho. (10-1-99)T

212. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-Four Hour Supervision. The facility shall be staffed by facility employees on a twenty-four (24) hour basis when juveniles are being housed. (10-1-99)T

02. Staffing. The facility shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the facility. The facility shall have Policy and Procedures in place governing staffing and shall submit a staffing plan to the Department of Juvenile Corrections prior to licensing and renewal. The following staffing plan is a recommendation only, and is NOT mandatory. It is recommended that the staffing plan have at least two (2) staff awake and on duty through sleeping hours and the following staff during waking hours as governed by the "one (1) direct care staff to eight (8) juveniles, plus one (1) staff" rule: (10-1-99)T

a. If the facility houses eight (8) or fewer juveniles, there should be at least one (1) direct care staff and one (1) other staff awake at all times. (10-1-99)T

b. If the facility houses more than eight (8) juveniles, there should be one (1) direct care staff for each eight (8) juveniles plus one (1) additional staff awake at all times. Example: if the facility houses thirty-two (32) youth, four (4) direct care staff would be recommended (one (1) staff to eight (8) juveniles), plus one (1) additional staff for a total of five (5) staff. (10-1-99)T

03. Gender Of Employees. At least one (1) of the facility employees on duty should be female when females are housed in the facility and at least one (1) shall be male when males are housed in the facility. (10-1-99)T

04. Minimum Qualifications. Direct Care Personnel, or Direct Care Volunteers, at the time of employment, shall meet the minimum criminal history background requirements that are outlined in the Idaho Peace Officers Standards and Training (P.O.S.T.) Detention Officer Standards. Decisions on hiring may be appealed to the governing body of the facility. (10-1-99)T

05. Training And Staff Development Plan. Each juvenile detention facility shall develop a staff training and development plan based on the Policy and Procedures of the facility. All Direct Care Personnel, paid or unpaid, shall be provided orientation training before undertaking their job duty assignments. The orientation and training plan should address areas such as First Aid/CPR, security procedures, supervision of juveniles, signs of suicide risks, suicide precautions, fire and emergency procedures, safety procedures and use of physical force regulations,. The orientation and training plan should also address areas such as report writing, juvenile rules of conduct, rights and responsibilities of juveniles, fire and emergency procedures, safety procedures, key control, interpersonal relations, social/cultural life styles of the juvenile population, communication skills, and counseling techniques. (10-1-99)T

213. -- 214. (RESERVED).

215. FACILITY INFORMATION SYSTEMS.

01. Written Policy And Procedure. The facility shall have written policy and procedure to govern the collection, management, and retention of information pertaining to juveniles and the operation of the facility. Written policy and procedure shall address, at a minimum, the following: (10-1-99)T

- a. Accuracy of information, including procedures for verification; (10-1-99)T
- b. Security of information, including access and protection from unauthorized disclosure; (10-1-99)T
- c. Content of records; (10-1-99)T
- d. Maintenance of records; (10-1-99)T
- e. Length of retention; and (10-1-99)T

- f. Method of storage or disposal of inactive records. (10-1-99)T

02. Release Of Information. Prior to release of information to agencies other than criminal justice authorities or other agencies with court orders for access, a written release of information shall be obtained from the juvenile's parent, legal guardian or through a court order with a copy of that release placed in the juvenile's file folder. (10-1-99)T

03. Access To Record. Parents, legal guardians and staff shall be permitted access to information in the juvenile's files and records as authorized by law. Juveniles shall be permitted reasonable access under appropriate supervision to information in their own files and records. The facility administrator may restrict the juvenile's access to certain information, or provide a summary of the information when its disclosure to the juvenile presents a threat to the safety and security of the facility or may be detrimental to the best interests of the juvenile. If a juvenile's access to records is denied, documentation that states the reason for the denial shall be maintained by the facility. (10-1-99)T

216. DOCUMENTATION.

01. Shift Log. The facility shall maintain documentation including time notations on each shift which includes the following information, at a minimum: (10-1-99)T

- a. Personnel on duty; (10-1-99)T
- b. Time and results of security or well-being checks and head counts; (10-1-99)T
- c. Names of juveniles received or discharged with times recorded; (10-1-99)T
- d. Names of juveniles temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the facility with times recorded; (10-1-99)T
- e. Time of meals served; (10-1-99)T
- f. Times and shift activities, including any action taken on the handling of any unusual or routine incidents; (10-1-99)T
- g. Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers, and others; (10-1-99)T
- h. Notations and times of problems, disturbances, escapes; (10-1-99)T
- i. Notations and times of any use of emergency or restraint equipment; and (10-1-99)T
- j. Notation and times of Perimeter Security Checks. (10-1-99)T

02. Housing Assignment Roster. The facility shall maintain a master file or roster board indicating the current housing assignment and status of all juveniles detained. (10-1-99)T

03. Visitor's Register. The facility shall maintain a visitor's register in which the following will be recorded: (10-1-99)T

- a. Name of each visitor; (10-1-99)T
- b. Time and date of visit; (10-1-99)T
- c. Juvenile to be visited; and (10-1-99)T
- d. Relationship of visitor to juvenile and other pertinent information. (10-1-99)T

04. Juvenile Records. The facility shall classify, retain and maintain an accurate and current record for each juvenile detained in accordance with the provisions of Section 31-871, Idaho Code. Materials in the individual's record shall be clearly identified as to source, verification and confidentiality. The record shall contain, at a minimum, the following: (10-1-99)T

- a. Booking and intake records; (10-1-99)T
- b. Record of court appearances; (10-1-99)T
- c. Documentation of authority to hold; (10-1-99)T
- d. Probation officer or caseworker, if assigned; (10-1-99)T
- e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile; (10-1-99)T
- f. Record of deposits/withdrawals from the juvenile's account; (10-1-99)T
- g. Classification records, if any; (10-1-99)T
- h. Records of participation in programs and services; (10-1-99)T
- i. Rule infraction reports; (10-1-99)T
- j. Records of disciplinary actions; (10-1-99)T
- k. Grievances filed and their dispositions; (10-1-99)T
- l. Release records; (10-1-99)T
- m. Personal information and emergency contact information; (10-1-99)T
- n. Medical history Documentation of a completed admission medical screening; (10-1-99)T
- o. Visitor records; (10-1-99)T
- p. Incident reports; (10-1-99)T
- q. Photographs. (10-1-99)T

217. MEDICAL INFORMATION.

01. Medical Files. The Health Authority shall maintain medical records for each juvenile which shall be kept separate from other records. (10-1-99)T

02. Access To Medical Files. The facility administrator, in conjunction with the Health Authority, shall establish procedures to determine access to medical files in accordance with privacy laws. (10-1-99)T

218. -- 219. (RESERVED).

220. SAFETY AND EMERGENCY PROCEDURES.

01. Written Policy And Procedure. The facility shall have written policy and procedures which address fire safety, fire emergency evacuation plans, other safety-related practices, and the facility's plans for responding to emergency situations. (10-1-99)T

02. Compliance With Fire Code. The facility shall comply with local and state fire code, and at a

minimum, make a request to the local fire Marshall or authorized agency to be inspected to comply with fire safety guidelines and shall maintain documentation of this inspection. (10-1-99)T

221. -- 223. (RESERVED).

224. FACILITY SECURITY.

01. Security And Control Policy. The facility's Policy and Procedures manual shall contain all procedures for facility security and control, with detailed instructions for implementing these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (10-1-99)T

02. Personal Observation. The facility shall have written policy and procedures which Facility Policy and Procedures shall govern the observation of all juveniles and shall, at a minimum, require staff to personally observe all juveniles every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juveniles who are violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation. (10-1-99)T

03. Cross Gender Supervision. Policies governing supervision of female juveniles by male employees and male juveniles by female employees shall be based on privacy needs and legal standards. Except in emergencies, facility employees shall not observe juveniles of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. (10-1-99)T

04. Head Counts. The facility shall have a system to physically count or account for all juveniles, including juveniles on work release, educational release, or other temporary leave status who may be absent from the facility for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift and there shall be at least four (4) hours between each count. (10-1-99)T

05. Electronic Surveillance. Electronic monitoring equipment should not be used in place of the Personal Observation of juveniles required. (10-1-99)T

225. PHYSICAL CONTROL.

01. Use Of Physical Force. The facility shall have written policies and procedures which govern the use of physical force. The use of physical force shall be restricted to instances of justifiable self-protection, the protection of others or property, the prevention of escapes, or the suppression of disorder and then only to the degree necessary to restore order. (10-1-99)T

a. Physical force shall not be used as punishment. (10-1-99)T

b. A written report shall be made following any use of physical force. The report will be reviewed by the facility administrator and will be maintained as part of the facility records. (10-1-99)T

02. Use Of Restraints. The facility shall have written policies and procedures which govern the use of physical restraints. The use of restraints shall be restricted to justifiable instances and during transfer. Justifiable instances shall be specifically defined in each facility's policies and Procedures. Written policy and procedures shall provide that instruments of restraint are never applied as punishment and are applied only with the approval of the facility administrator or designee. (10-1-99)T

a. Restraints shall not be used as punishment or for the convenience of staff. (10-1-99)T

b. Written Report of Use of Restraints. A written report shall be made following any use of restraints except for transfer. The report will be reviewed by the facility administrator and will be maintained as part of the facility records. (10-1-99)T

226. SECURITY CHECKS AND INSPECTIONS.

01. Perimeter Security Checks. The facility shall have written Policy and Procedures that govern the frequency and performing of perimeter security checks. (10-1-99)T

02. Security Inspections. The facility administrator or his designee shall conduct weekly inspections of all locks, windows, floors, walls, ventilator covers, access plates, glass panels, protection screens, doors, and other security equipment. The date, time, and results of these inspections shall be recorded on a checklist or log. The facility administrator shall promptly correct any identified problems. (10-1-99)T

227. SEARCH AND SEIZURE.

01. Facility Search Plan. The facility shall have written policies and procedures which outline a facility search plan for the control of contraband and weapons which provides for unannounced and irregularly timed searches of juveniles' rooms, day rooms, and activity, work or other areas accessible to juveniles and searches of all materials and supplies coming into the facility. (10-1-99)T

02. Personal Searches. The facility shall have written policies and procedures governing the searching of juveniles for the control of contraband and weapons which includes, at a minimum, the following provisions: (10-1-99)T

a. Search of juveniles upon entering the security perimeter; (10-1-99)T

b. Search of newly admitted juveniles; (10-1-99)T

c. Periodic unannounced and irregularly timed searches of juveniles; (10-1-99)T

d. Provision for strip searches and body cavity searches at such times when there exists reasonable belief that the juvenile is in the possession of contraband or weapons or other prohibited material; (10-1-99)T

e. Pat searches. Except in cases of emergency, pat searches should be conducted by direct care personnel of the same sex; (10-1-99)T

f. Strip searches. All strip searches shall be conducted in private and in a manner which preserves the dignity of the juvenile to the greatest extent possible and under sanitary conditions. All strip searches shall be conducted by direct care personnel of the same sex as the juvenile or by the health authority or medical employee. No persons of the opposite sex of the juvenile shall be present during the strip search other than the health authority or medical employee; and (10-1-99)T

g. Body cavity searches. All body cavity searches shall be conducted in private and in a manner which preserves the dignity of the juvenile to the greatest extent possible and under sanitary conditions. Body cavity searches shall be conducted only by the health authority or by a medical employee. No persons of the opposite sex of the juvenile, other than the health authority or medical employee, shall be present during body cavity searches. (10-1-99)T

03. All Body Cavity Searches Shall Be Documented. Documentation of body cavity searches shall be maintained in facility records and in the juvenile's record. (10-1-99)T

04. Seizure And Disposition Of Contraband. All contraband found during facility or juvenile searches shall be seized. The seizure and disposition of the contraband shall be documented. When a crime is suspected to have been committed within the facility, all evidence shall be maintained and made available to the proper authorities. (10-1-99)T

228. SECURITY DEVICES.

01. Key Control. The facility shall have policy and procedures in place to control keys and tools. (10-1-99)T

02. Security Devices. Facility employees shall use only security equipment on which they have been

properly trained and is issued through, or authorized by, the facility administrator. Certification of proper training shall be kept in facility records. (10-1-99)T

03. Weapons Locker. The facility shall provide a weapons locker or similar arrangement at security perimeter entrances for the temporary storage of weapons belonging to law enforcement officers who must enter the facility. (10-1-99)T

229. (RESERVED).

230. FOOD SERVICES.

The facility shall have written policies and procedures which govern food service. If food is not obtained through a food service contract from an outside source, the facility's food service operation shall be supervised by a designated employee who has experience and/or training in meal preparation, menu planning, staff supervision, ordering procedures, health and safety policies, theft precautions, and inventory control. If food is obtained through a food service contract from an outside source, provisions shall be made to assure that the contractor complies with the applicable section of these Rules. (10-1-99)T

231. (RESERVED).

232. SPECIAL DIETS.

The facility shall have written policies and procedures which govern special diets. (10-1-99)T

01. Special Diets, Medical. Special diets prescribed by a physician shall be followed according to the orders of the treating physician or dentist. (10-1-99)T

02. Special Diets, Religious. Provisions should be made for special diets when a juvenile's religious beliefs require adherence to particular dietary practices. (10-1-99)T

233. DIETARY RECORDS.

01. Food Service Records. The facility shall maintain an accurate record of all meals served to juveniles, including special diets. All menus shall be planned, dated, and available for review at least one (1) week in advance. Notations shall be made of any changes in the menu. Menus shall be kept at least one (1) year after use. (10-1-99)T

02. Review Of Menus. Menus and records of meals served shall be reviewed on a regular basis at least annually by a licensed dietician, physician or nutritionist to verify nutritional adequacy or shall meet the current guidelines of the National School Lunch Program. The facility shall maintain documentation of the dietician's, physician's or nutritionist's review and verification. Subsequent menus shall be promptly revised to eliminate any deficiencies noted. (10-1-99)T

234. MEALS.

01. Providing Meals. The facility shall have written policies and procedures which govern the providing of meals. Three (3) meals, at least two (2) of which includes a hot entree, shall be served daily per Idaho Code. (10-1-99)T

a. Meals must be served at approximately the same time every day. No more than fourteen (14) hours shall elapse between the evening meal and breakfast the next day unless an evening snack is served. If snacks are provided, up to sixteen (16) hours may elapse between the evening meal and breakfast. (10-1-99)T

b. Youth out of the facility attending court hearings or other approved functions when meals are served shall have a meal provided upon their return if they have not already eaten. (10-1-99)T

c. If meals are provided to staff, the menu should be the same as provided to juveniles. (10-1-99)T

d. The health authority or a medical employee shall be notified when a juvenile does not eat three (3)

consecutive meals. (10-1-99)T

02. Use Of Food As Disciplinary Sanction Prohibited. Food shall not be withheld from juveniles, nor the menu varied as a disciplinary sanction. (10-1-99)T

03. Control Of Utensils. The facility shall have a control system for the issuance and return of all food preparation and eating utensils. (10-1-99)T

235. FOOD SERVICE SANITATION.

01. Sanitation. Food service and related sanitation practices shall comply with the requirements of the State Health Department or other appropriate regulatory body. (10-1-99)T

a. The facility's food service operation shall be inspected in the manner and frequency mandated by local health authorities. administrator shall solicit at least an annual sanitation inspection by a qualified entity. The results of such inspections shall be documented and the facility administrator shall take prompt action to correct any identified problems. (10-1-99)T

b. A daily inspection of all food service areas and equipment shall be conducted by the facility administrator, food service personnel, or other facility employee who is familiar with food service sanitation requirements and practices. (10-1-99)T

02. Screening Of Food Service Workers. Written policy shall provide that all persons assigned to food service work, including juveniles, shall be in good health and free from any communicable or infectious disease, vermin, or open, infected wounds. (10-1-99)T

03. Food Service Sanitation Training. All persons assigned to food service work shall be familiar with and adhere to appropriate food service sanitation practices and requirements. (10-1-99)T

236. FOOD SERVICE SUPPORT.

01. Dish Washing. All dishes, utensils, pots, pans, trays, and food carts used in the preparation, serving, or consumption of food shall be washed and rinsed promptly after every meal. Disposable utensils and dishes shall not be reused. (10-1-99)T

02. Ventilation. Adequate ventilation shall be available to dispel excessive heat, steam, condensation, obnoxious odors, vapors, smoke, and fumes from the kitchen area. All vent openings to outside air shall be screened to prevent entrance of dirt, dust, and other contaminants. (10-1-99)T

237. -- 239. (RESERVED).

240. SANITATION AND HYGIENE.

01. Sanitation Inspections. Written policy and procedures shall provide that the facility be maintained in a clean and healthful condition and that the facility administrator or his designee shall conduct at least weekly sanitation and maintenance inspections of all areas of the facility. (10-1-99)T

02. Vermin Control. The facility shall have a plan for the control of vermin and pests which includes inspections and fumigations, as necessary, by a licensed pest control professional. (10-1-99)T

03. Housekeeping Plan. The facility shall have a written housekeeping plan for all areas of the physical plant which provides for daily housekeeping and maintenance by assigning specific duties to juveniles and staff. All work shall be assigned and supervised by facility employees. No juvenile shall be allowed to assign work to other juveniles. (10-1-99)T

04. Maintenance And Repair. The facility shall have written Policy and Procedures to provide that all plumbing, lighting, ventilation equipment, furnishings, and security hardware in juvenile living areas shall be kept in

good working order. Any broken fixture, equipment, furnishings, or hardware shall be promptly repaired or replaced. Painted surfaces shall not be allowed to become scaled or deteriorated. (10-1-99)T

05. Water Quality. Where the facility's water supply is obtained from a private source, the source shall be properly located, constructed, and operated to protect it from contamination and pollution. The water shall meet all current standards set by the applicable state and/or local authority as to bacteriological, chemical, and physical tests for purity. (10-1-99)T

241. -- 244. (RESERVED).

245. PERSONAL HYGIENE.

01. Personal Hygiene Items. The facility shall provide without charge the following articles necessary for maintaining proper personal hygiene: (10-1-99)T

- a. Soap; (10-1-99)T
- b. Toothbrush; (10-1-99)T
- c. Toothpaste; (10-1-99)T
- d. Comb; (10-1-99)T
- e. Shaving equipment upon request; and (10-1-99)T
- f. Products for female hygiene needs. (10-1-99)T

02. Toilet Paper. Toilet paper shall be available at all times in juveniles' toilet areas. (10-1-99)T

03. Clothing And Linens. The facility shall provide for the issue of clean clothing, bedding, linens, and towels to new juveniles held overnight. At a minimum, the following shall be provided: (10-1-99)T

- a. A set of standard facility clothing or uniform; (10-1-99)T
- b. Fire-retardant mattress; (10-1-99)T
- c. Pillow and pillow case; (10-1-99)T
- d. Two (2) sheets or one (1) sheet and one (1) mattress cover; (10-1-99)T
- e. Sufficient blankets to provide comfort under existing temperature conditions; and (10-1-99)T
- f. One (1) clean towel. (10-1-99)T

04. Laundry Services. Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juveniles. (10-1-99)T

- a. Clothing worn by the juvenile while in the detention facility shall be laundered or exchanged at least twice (2) each week. (10-1-99)T
- b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary. (10-1-99)T
- c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile. (10-1-99)T
- d. Towels shall be laundered or exchanged at least twice weekly. (10-1-99)T

05. Clothing And Linen Supplies. The facility inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available. (10-1-99)T

246. -- 249. (RESERVED).

250. HEALTH SERVICES.

01. Written Policy And Procedures. The facility shall have written policies and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policies and procedures must at a minimum address, but are not limited to the following: (10-1-99)T

a. Admission medical screening must be documented and performed on all juveniles upon admission to the facility. The medical screening should include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, if any, the use of alcohol or drugs, mental illness and/or suicidal behavior, observations of unusual behavior, including state of consciousness, mental status, appearance, conduct, tremor, sweating, body deformities, physical injuries, trauma markings, bruises, jaundice, rashes, evidence of body vermin, and ease of movement; (10-1-99)T

b. Collection of health appraisal data within fourteen (14) days; (10-1-99)T

c. Non-emergency medical services; (10-1-99)T

d. Emergency medical and dental services; (10-1-99)T

e. Emergency evacuation plan of juveniles from the facility; (10-1-99)T

f. Use of an emergency vehicle; (10-1-99)T

g. Use of one (1) or more hospital emergency rooms or other appropriate health care facility; (10-1-99)T

h. Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (10-1-99)T

i. First-aid and CPR instructions and training, including the availability of First Aid supplies; (10-1-99)T

j. Screening, referral, and care of juveniles who may be suicide-prone, or experience physical, mental or emotional disabilities; (10-1-99)T

k. Arrangements for providing close medical supervision of juveniles with special medical or psychiatric problems; (10-1-99)T

l. Delousing procedures; (10-1-99)T

m. Infectious disease control and medical isolation; (10-1-99)T

n. Juveniles suspected of having contagious or infectious diseases shall be temporarily isolated immediately from other juveniles and shall be examined by a health care provider promptly; (10-1-99)T

o. Management of pharmaceuticals, including storage in a secure location; (10-1-99)T

p. Notification of next of kin and/or appropriate authorities in case of serious illness, injury or death; (10-1-99)T

and

q. A juvenile's requests for medical treatment. (10-1-99)T

02. Medical Judgements. Except for regulations necessary to ensure the safety and order of the facility, all matters of medical, mental health, and dental judgement shall be the sole province of the Health Authority, who shall have final responsibility for decisions related to medical judgements. (10-1-99)T

03. Informed Consent. Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Section 16-1616, Idaho Code. (10-1-99)T

04. Health Appraisal. A physical assessment for each juvenile shall be provided by the Health Authority or Medical Employee within fourteen (14) days of admission. (10-1-99)T

251. -- 254. (RESERVED).

255. RULES AND DISCIPLINE.

01. Written Policy And Procedures. The facility shall have written policy and procedure for maintaining discipline and regulating juveniles' conduct. The following general principle shall apply: (10-1-99)T

a. The conduct of juveniles shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (10-1-99)T

b. The facility shall have written rules of conduct which specify prohibited acts within the facility, the penalties that may be imposed for various degrees of violation, and the disciplinary procedures to be followed. Upon admission, each juvenile shall be provided a copy of the rules. If, at any time, a literacy or language barrier is recognized, the facility shall make good faith efforts to provide understanding; (10-1-99)T

c. Disciplinary action shall be of a nature to regulate juveniles' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (10-1-99)T

d. The behavior of juveniles shall be controlled in an impartial and consistent manner; (10-1-99)T

e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (10-1-99)T

f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juveniles' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (10-1-99)T

g. Use of restraints or use of physical force as punishment is prohibited. Use of restraints or physical force may be used only in accordance with written Policy and Procedure and limited to the following situations: (10-1-99)T

i. Protection of a juvenile from self injury; (10-1-99)T

ii. Prevention of injury to others; (10-1-99)T

iii. Precaution during transfer; (10-1-99)T

iv. Medical reasons under the direction of medical staff; and (10-1-99)T

v. Prevention of property damage. (10-1-99)T

h. Withholding of food or variation of diet as punishment is prohibited; and (10-1-99)T

i. Juveniles shall not be subject to any situation in which juveniles impose discipline on each other. (10-1-99)T

02. Resolution Of Rule Infractions. The facility shall have written Policy and Procedures to define and govern the resolution of rule infractions. (10-1-99)T

03. Grievance Procedure. The facility shall have written Policy and Procedures for juveniles which will identify grievable issues and define the grievance process. (10-1-99)T

04. Criminal Law Violations. When a juvenile allegedly commits an act that violates federal, state, or local criminal law, the case shall be promptly referred to the appropriate authority for possible investigation and prosecution. (10-1-99)T

256. MAIL, VISITING, TELEPHONE.

01. Written Policy And Procedures. These shall govern the practices of handling mail, visitation, use of the telephone, and any limitations or restriction on these privileges. Juveniles shall have the opportunity to receive visits and to communicate and correspond with persons, representatives of the media or organizations, subject to the limitations necessary to maintain facility security and order. (10-1-99)T

02. Mail Service. Mail, other than sent to or received from public officials, judges, attorneys, courts, government officials and officials of the confining authority, may be opened and inspected for contraband. (10-1-99)T

03. Telephone Service. All juveniles, except those restricted as a result of disciplinary action, shall be provided the opportunity to complete at least two (2) telephone calls weekly to maintain family and community ties. (10-1-99)T

a. Telephone calls shall not be monitored, except where legitimate reason exists in order to maintain security and order in the facility. If calls are monitored, the juvenile shall be so notified. (10-1-99)T

b. The facility may require that any costs for telephone calls be borne by the juvenile or the party called. (10-1-99)T

c. Written policy and procedure shall grant all juveniles the right to make at least one (1) local or collect long distance telephone call to family members, attorneys, or other approved individuals during the admissions process. (10-1-99)T

d. Juveniles shall be allowed to make a reasonable number of telephone calls to their attorneys. (10-1-99)T

i. Telephone calls to attorneys shall be of reasonable duration. (10-1-99)T

ii. Telephone calls to attorneys shall not be monitored. (10-1-99)T

iii. Telephone calls to attorneys shall not be revoked as a disciplinary measure. (10-1-99)T

04. Visitation Restrictions. The parents/legal guardians, probation officer, parole officer, facility administrator or the court of jurisdiction may impose restrictions on who may visit a juvenile. (10-1-99)T

05. Search Of Visitors. Written policy and procedure shall specify that visitors register upon entry into the facility and the circumstances under which visitors are searched and supervised during the visit. (10-1-99)T

06. Confidential Visits. The facility shall provide juveniles adequate opportunities for confidential access to courts, attorneys and their authorized representatives, probation and parole officers, counselors, caseworkers and the clergy. (10-1-99)T

07. Visitation. Attorneys, probation and parole officers, counselors, caseworkers and clergy shall be permitted to visit juveniles at reasonable hours other than during regularly scheduled visiting hours. (10-1-99)T

a. Visits with attorneys, probation and parole officers, counselors, caseworkers and clergy shall not be monitored, except that facility employees may visually observe the visitation as necessary to maintain appropriate levels of security. (10-1-99)T

b. Visits with attorneys, probation and parole officers, counselors, caseworkers or clergy shall be of the contact type unless otherwise indicated by the juvenile or visitor, or the facility administrator determines there is a substantial security justification to restrict the visit to a non-contact type. When a contact visit is not allowed, the reasons for the restriction shall be documented in the juvenile's record. (10-1-99)T

257. -- 260. (RESERVED).

261. ADMISSION.

01. Orientation Materials. Written policy and procedure shall provide that new juveniles receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the facility shall make good faith efforts to assure that the juvenile understands the material. (10-1-99)T

02. Written Procedures For Admission. The facility shall have written policy and procedures for admission of juveniles which shall address, but are not limited to, the following: (10-1-99)T

a. Determination that the juvenile is lawfully committed to the facility. (10-1-99)T

b. The classification of juveniles in regard to sleeping, housing arrangements, and programming. (10-1-99)T

c. If the juvenile shows signs of illness, injury, is incoherent, or unconscious, he or she shall not be admitted to the facility until the committing officer has been provided written documentation from a medical personnel or a physician of examination, treatment, and fitness for confinement. (10-1-99)T

d. A complete search of the juvenile and possessions. (10-1-99)T

e. The disposition of personal property. (10-1-99)T

f. Provision of shower and hair care, if necessary. (10-1-99)T

g. The issuance of clean, laundered clothing, as needed. (10-1-99)T

h. The issuance of personal hygiene articles. (10-1-99)T

i. The provision of medical, dental and mental health screening. (10-1-99)T

j. The assignment to housing unit. Male and female juveniles shall not occupy the same sleeping room. (10-1-99)T

k. The recording of basic personal data and information. (10-1-99)T

l. The assistance to juveniles in notifying their families of their admission and the discussion of procedures for mailing and visiting. (10-1-99)T

m. The fingerprinting and photographing in accordance with Idaho Code. (10-1-99)T

03. Court Appearance Within Twenty-Four Hours. According to Idaho Code, written policy and procedures shall ensure that any juvenile placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail or detention facility, but instead may be placed in juvenile shelter care facilities. (10-1-99)T

04. Limitations Of Detention. Written policy and procedure shall limit the use of detention in accordance with Section 20-516, Idaho Code. (10-1-99)T

262. RELEASE.

01. Release. Written policy and procedure shall govern the release of any juvenile and the release process including, but not limited to, verification of juvenile's identity, verification of release papers, completion of release arrangements, including the person or agency to whom the juvenile is being released, return of personal effects, completion of any pending action, and instructions on forwarding mail. (10-1-99)T

02. Community Leaves. Written policy and procedure shall govern escorted and unsecured day leaves into the community. (10-1-99)T

03. Personal Property Complaints. Written policy and procedures shall govern a procedure for handling complaints about personal property. (10-1-99)T

04. Disposal Of Property. Property not claimed within four (4) months of a juvenile's discharge may be disposed of by the facility in accordance with Idaho Code. (10-1-99)T

263. -- 264. (RESERVED).

265. PROGRAMS AND SERVICES AVAILABLE.

The facility shall have written policies and procedures which govern what programs and services will be available to juveniles, subject to the limitations necessary to maintain facility security and order. These programs and services shall include, at a minimum, access or referral to counseling, religious services on a voluntary basis, one (1) hour per day and five (5) days per week of large muscle exercise and passive recreational activities, regular and systematic access to reading material, juvenile work assignments and educational programs according to the promulgated rules of the Idaho State Department of Education, except where there is justification for restricting a juvenile's participation. Any denial of services must be documented. (10-1-99)T

266. -- 269. (RESERVED).

270. REQUIREMENTS FOR EXISTING BUILDINGS BEING USED FOR JUVENILE DETENTION CENTER.

01. Applicability. Rules in this section shall apply to all facilities for which construction was initiated and/or completed before October 1, 1998. (10-1-99)T

02. Code Compliance. In addition to these rules, existing facilities shall comply with applicable Americans with Disabilities Act (ADA) building, health, and safety codes of the local authority and the requirements of the State Fire Marshal. Rules herein which exceed code requirements of the local authority shall take precedence. (10-1-99)T

03. General Conditions. All existing juvenile detention facilities shall conform to the following general conditions: (10-1-99)T

a. Artificial lighting. Light levels in all areas shall be appropriate for the use and type of activities which occur. Night lighting levels shall permit adequate illumination for supervision. (10-1-99)T

b. Natural light. All living areas shall provide visual access to natural light. (10-1-99)T

c. Heating, cooling and ventilation systems. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the facility. (10-1-99)T

d. Security hardware. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on

sleeping room or housing unit doors is prohibited. (10-1-99)T

04. Admission And Release Area. The facility shall have an intake and release area which should be located within a secure perimeter, but apart from other living and activity areas. Adequate space shall be allocated for, but not limited to, reception, booking and identification, search, shower and clothing exchange, medical screening, storage of juvenile's personal property and facility clothing, telephone calls, interviews, release screening and processing, and temporary holding rooms designed to detain juveniles for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide at least twenty-five (25) square feet of floor space for each juvenile at capacity, but shall be no smaller than fifty (50) square feet. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (10-1-99)T

05. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (10-1-99)T

06. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per occupant at the room's rated capacity and shall be equipped with at least a bed above the floor for each occupant. (10-1-99)T

07. Sanitation And Seating. All single or multiple occupancy sleeping rooms or cells shall be equipped and/or provide access to a toilet, wash basin with hot and cold running water, and drinking water at the following ratios: at least one (1) shower and one (1) toilet for every eight (8) juveniles, or fraction thereof, wash basin with hot and cold water for every twelve (12) juveniles, or fraction thereof, and tables and sufficient seating for all juveniles for the maximum number expected to use the room at one (1) time. (10-1-99)T

08. Day Room/Multi-Purpose Room. The facility shall have at least one (1) day room/multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per occupant for the maximum number expected to use the room at one (1) time. (10-1-99)T

09. Program Space. Adequate space shall be allocated for, but not limited to, educational programs, individual and group activities, exercise and recreation, visitation, confidential attorney and clergy interviews, and counseling. (10-1-99)T

10. Outdoor Exercise Space. The facility should have a secure outdoor recreation area large enough to ensure that each juvenile is offered at least one (1) hour of access daily. (10-1-99)T

11. Administration Space. Adequate space shall be provided for administrative, security, professional and clerical staff. This space includes conference rooms, storage rooms for records, medical services, a public lobby, and toilet facilities. (10-1-99)T

12. Handicapped Access. All parts of the facility that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (10-1-99)T

13. Perimeter Security. The perimeter is secured in a way which provides that juveniles remain within the perimeter and that access by the general public is denied without proper authorization. (10-1-99)T

271. -- 274. (RESERVED).

275. NEW FACILITY DESIGN AND CONSTRUCTION.

01. Applicability. All standards in this section, except where exceptions are stated, shall apply to new juvenile detention facilities and renovation of existing juvenile detention facilities for which construction is initiated October 1, 1998. In the case of a partial renovation of an existing facility, it is intended that these rules should apply only to the part of the facility being added. (10-1-99)T

02. Code Compliance. In addition to these rules, all new construction and renovation shall comply

with the applicable ADA, building, safety, and health codes of the local authority and the applicable requirements of the State Fire Marshal, and state law. Standards herein which exceed those of the local authority shall take precedence. (10-1-99)T

03. Site Selection. New facilities should be located to facilitate access to community resources and juvenile justice agencies. If the facility is located on the grounds or in a building with any other correctional facility, it shall be constructed as a separate, self-contained unit. (10-1-99)T

04. General Conditions. All newly constructed or renovated juvenile detention facilities shall conform to the following general conditions: (10-1-99)T

a. Artificial light. Light levels in all housing areas shall be appropriate for the use and type of activities which occur. Night lighting shall permit adequate illumination for supervision. (10-1-99)T

b. Natural light. In all new construction, all living areas shall provide visual access to natural light. (10-1-99)T

c. Heating, cooling and ventilation systems. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to the summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the facility. (10-1-99)T

d. Detention hardware. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited. (10-1-99)T

e. Privacy screening. Juveniles' rights to privacy from unauthorized or degrading observation shall be protected without compromising the security and control of the facility. Privacy screening for all toilet and shower areas which still allows adequate supervision of those areas should be incorporated into the design. (10-1-99)T

f. Perimeter security. The facility shall have a perimeter which is secured in such a way that juveniles remain within the perimeter and that access by the general public is denied without proper authorization. (10-1-99)T

g. Electronic surveillance and communications systems. The security area of the facility shall have an audio communication system equipped with monitors in each sleeping room and temporary holding room designed to allow monitoring of activities and to allow juveniles to communicate emergency needs to facility employees. Closed circuit television should primarily be used to verify the identity of persons where direct vision is not possible. Closed circuit television shall not be used to routinely monitor the interior of sleeping rooms. (10-1-99)T

h. Emergency power. All newly constructed facilities shall provide an emergency source of power to supply electricity for entrance lighting, exit signs, circulation corridors, fire alarm, electrically operated locks and the ventilation system. (10-1-99)T

05. Admission And Release Area. The facility shall have an intake and release area which should be located within the security perimeter, but apart from other living and activity areas. Adequate space shall be allocated for, at least but not limited to, reception, booking and identification, search, shower and clothing exchange, medical screening, storage of juvenile's personal property and facility clothing, telephone calls, interviews, release screening and processing and temporary holding rooms designed to detain juveniles for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide at least twenty-five (25) square feet of floor space for each juvenile at capacity, but shall be no smaller than fifty (50) square feet. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (10-1-99)T

06. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (10-1-99)T

07. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-

five (35) square feet of unencumbered floor space per occupant at the room's rated capacity and shall be equipped with at least a bed off the floor for each occupant. (10-1-99)T

08. Sanitation And Seating. All single or multiple occupancy sleeping rooms shall be equipped with, or have twenty-four (24) hours per day access without staff assistance to toilets, wash basins with hot and cold running water, and drinking water at the following ratios: one (1) shower and one (1) toilet for every eight (8) juveniles or fraction thereof, one (1) wash basin with hot and cold water for every twelve (12) juveniles or a fraction thereof, and tables and seating sufficient for the maximum number expected to use the room at one (1) time. (10-1-99)T

09. Day Room/Multi-Purpose Room. The facility shall have at least one (1) day room/multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per occupant for the maximum number expected to use the room at one (1) time. (10-1-99)T

10. Program Space. Adequate space shall be allocated for, but not limited to, educational programs, individual and group activities, exercise and recreation, visitation, confidential attorney and clergy interviews, and counseling. (10-1-99)T

11. Interview Space. A sufficient number of confidential interview areas to accommodate the projected demand of visits by attorneys, counselors, clergy, or other officials shall be provided. At least one (1) confidential interview area is required. (10-1-99)T

12. Outdoor Exercise Space. The facility should have a secure outdoor recreation area. (10-1-99)T

13. Medical Service Space. Space shall be provided for routine medical examinations, emergency first-aid, emergency equipment storage, and secure medicine storage. (10-1-99)T

14. Food Service. Where food is to be prepared in-house, the kitchen shall have sufficient space for food preparation, serving, disposal, and clean-up to serve the facility at its projected capacity. The kitchen shall be properly equipped and have adequate storage space for the quantity of food prepared and served. (10-1-99)T

15. Laundry. Where laundry services are provided in-house, there shall be sufficient space available for heavy duty or commercial type washers, dryers, soiled laundry storage, clean laundry storage, and laundry supply storage. (10-1-99)T

16. Janitor's Closet. At least one (1) secure janitor's closet containing a mop sink and sufficient space for storage of cleaning supplies and equipment shall be provided within the security perimeter of the facility. (10-1-99)T

17. Security Equipment Storage. A secure storage area shall be provided for all chemical agents, weapons, and security equipment. (10-1-99)T

18. Administration Space. Adequate space shall be provided which includes but is not limited to, administrative, security, professional and clerical staff, offices, conference rooms, storage rooms, a public lobby, and toilet facilities. (10-1-99)T

19. Public Lobby. A public lobby or waiting area shall be provided which includes sufficient seating and toilets. Public access to security and administrative work areas shall be restricted. All parts of the facility that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (10-1-99)T

276. -- 999. (RESERVED).

**IDAPA 06 - IDAHO DEPARTMENT OF CORRECTION
06.01.01 - RULES OF THE BOARD OF CORRECTION
DOCKET NO. 06-0101-9901**

NOTICE OF PROCLAMATION OF RULEMAKING

EFFECTIVE DATE: In compliance with Section 20-212(1), Idaho Code, this rule is effective 30 days after publication of the rule in the Idaho Administrative Bulletin. The effective date of this rule is November 5, 1999.

AUTHORITY: In compliance with Section 20-212, Idaho Code, notice is hereby given that this agency has initiated rulemaking and is publishing this Notice of Proclamation of Rulemaking and the text of the rule.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the rulemaking: Pursuant to Senate Bill 1110, the State of Idaho Board of Correction has initiated rulemaking and is adopting rules based on existing Department Policy and Procedure in the following areas:

Tobacco free environment; Victim notifications; Service of process on department employees; Idaho Public Records Act; literature distribution; media and public relations; custody of evidence; central office visitors; public visits and tours of facilities; research requests; executions; county jail bed space assessment; housing inmates in non-department facilities; inmate marriages; deceased inmates; public as witnesses in inmate hearings; medical care; correspondence with inmates; inmate religious practices; attorney visits and court proceedings; inmate funds receipt and maintenance; telephones; searches of persons and vehicles entering department facilities; access to department facilities; public participation in inmate athletic events; visiting inmates; volunteer services; public participation in program activities; inmate hobby craft; business with inmates and labor of inmates; probation and parole supervision; and Community Work Center Advisory Board.

DATED this 25th day of August, 1999.

Jake Howard, Administrator
Institutional Services
Idaho Department of Correction
1299 North Orchard, Suite 110
Boise, Idaho 83706
(208) 658-2137 (Office) / (208) 327-7404 (Fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 06-0101-9901

**IDAPA 06
TITLE 01
Chapter 01**

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - RULES OF THE BOARD OF CORRECTION

000. LEGAL AUTHORITY.

01. Section 9-347, Idaho Code. Pursuant to Section 9-347, Idaho Code the Board shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the department, the custodian and the physical location of such documents. (11-5-99)

02. Section 20-209, Idaho Code. Pursuant to Section 20-209, Idaho Code the Board shall have control, direction and management of all correctional facilities and property used in connection with correctional facilities. (11-5-99)

03. Section 20-212, Idaho Code. Pursuant to Section 20-212, Idaho Code the Board shall make all rules necessary to carry out the provisions of Title 20, Chapter 2, Idaho Code, not inconsistent with express statutes or the state constitution. (11-5-99)

04. Section 20-217A, Idaho Code. Pursuant to Section 20-217A, Idaho Code the director shall assume all the authority, powers, functions and duties as may be delegated to him by the Board. (11-5-99)

05. Section 20-244, Idaho Code. Pursuant to Section 20-244, Idaho Code the Board shall make and adopt such rules as they may deem necessary for the government and discipline of the correctional facilities. (11-5-99)

06. Section 18-2510, Idaho Code. Pursuant to Section 18-2510, Idaho Code it is a crime to convey articles, letters, or things into and out of Department facilities contrary to Department procedures, directives and Section 510. (11-5-99)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 06.01.01, "Rules of the Board of Correction," IDAPA 06, Title 01, Chapter 01. (11-5-99)

02. Scope. These rules are established to govern the duties and responsibilities delegated to the Board by law which affect a right of the public or a process to which the public has access. (11-5-99)

002. WRITTEN INTERPRETATIONS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code except as specifically noted therein so there are no written interpretations of these rules. (11-5-99)

003. ADMINISTRATIVE APPEALS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code except as specifically noted therein so there is no provision for administrative appeal. (11-5-99)

004. DEFINITIONS.

01. Administrator. The exempt employee in authority over a division of the Department. (11-5-99)

02. Archival Research. Research requiring access to stored historical data, files, documentation, video or audio tapes, electronically sorted data, or written material. (11-5-99)

03. Attorney Of Record. An attorney appointed by a court or retained by an inmate in a legal action. (11-5-99)

04. Board. The state Board of Correction. (11-5-99)

05. Case Management File. A collection of legal documents, reports, submissions, statements, and support materials used in making decisions about an inmate, parolee, or probationer regarding classification, treatment, programming, management, parole, or clemency decisions. (11-5-99)

- 06. Confidential Mail.** Is mail to or from the president, the governor, the Attorney General or any Assistant or Deputy Attorney General, the Idaho legislature or Congress (except for bulk mailings), the courts, attorneys (except for bulk mailings), the Board, the director, and Department administrators and facility heads. (11-5-99)
- 07. Contact Visiting.** Visiting with an inmate where there are no physical barriers between the visitor and the inmate and the inmate and visitor may be allowed to touch. (11-5-99)
- 08. Contraband.** Any thing of any kind which is prohibited by Board, Department, or facility rules, procedures, or directives. Contraband also includes any thing of any kind which a facility head has not approved for possession by an inmate or which a facility head has not approved to bring in to a facility or on to department property. (11-5-99)
- 09. Contractor.** A person who has entered into a contract with the Board or Department, or a contract with the state of Idaho administered by the Board or Department to provide any service. (11-5-99)
- 10. County Jail.** A detention or holding facility operated by the sheriff of a county. (11-5-99)
- 11. Department.** The state Department of Correction. (11-5-99)
- 12. Department Property.** Real property owned or leased and operated or managed by the Board or Department. (11-5-99)
- 13. Directive.** A sequence of steps within a particular division to implement a procedure. (11-5-99)
- 14. Director.** The director of the Department of Correction. (11-5-99)
- 15. Division.** An operating unit of the Department. The Department divisions are: (11-5-99)
- a. Prisons; (11-5-99)
 - b. Management Services; (11-5-99)
 - c. Field and Community Services; (11-5-99)
 - d. Correctional Industries; and (11-5-99)
 - e. Institutional Services. (11-5-99)
- 16. Execution.** The carrying out of a sentence of death. (11-5-99)
- 17. Facility.** A building or residence, including the property and land where the building or residence is located, owned or leased and operated or managed by the Board or Department. (11-5-99)
- 18. Facility Head.** The person with primary responsibility to oversee, manage or operate a Department facility. (11-5-99)
- 19. Field Memoranda.** Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)
- 20. General Mail.** All mail other than confidential mail. (11-5-99)
- 21. Health Authority.** The Department employee with primary responsibility to oversee or manage the Department medical services. (11-5-99)
- 22. Immediate Family.** The immediate family of an inmate is: (11-5-99)

- a. The mother or father of the inmate, including step parent; (11-5-99)
 - b. The brother or sister of the whole or half (1/2) blood or by adoption or the stepbrother or stepsister of the inmate; (11-5-99)
 - c. The wife or husband of the inmate, as proved by marriage license or other operation of law; (11-5-99)
 - d. The natural child, adopted child or stepchild of the inmate; (11-5-99)
 - e. The grandparents of blood relation to the inmate; or (11-5-99)
 - f. The grandchildren of blood relation to the inmate. (11-5-99)
- 23. Intern.** A Student of a recognized college or university who may be involved in a course of study or research project conducted within a facility or service area under the authority of the Board. (11-5-99)
- 24. Inmate.** An individual in the physical custody of the Board. (11-5-99)
- 25. Inmate Visitor.** A member of the public who is approved to visit with an inmate at a Department facility. (11-5-99)
- 26. Legal Assistant.** A person who has been granted permission by the facility head or designee to assist an inmate in a specific legal matter and who is a law student or an employee of an attorney of record, or an employee of a local, state or federal court, or an employee of a legal aid service. (11-5-99)
- 27. Literature.** Notices, placards, banners, advertisements, and other writings not generated by the Department for Department distribution. (11-5-99)
- 28. Minor.** A individual less than eighteen (18) years old. (11-5-99)
- 29. Non-Contact Visiting.** Visiting with an inmate where there are physical barriers between the visitor and the inmate and the inmate and visitor are not allowed to touch. Verbal communication is generally accomplished through telephones, speakers or openings in the physical barrier designed to allow sound to pass. (11-5-99)
- 30. Obscene.** Material is considered obscene if it: (11-5-99)
- a. Portrays physical contact of a person with the sexual organs of another by genital-genital, oral-genital, digital-anal, digital-genital, anal-genital contact; (11-5-99)
 - b. Portrays the insertion of foreign objects into the anus or vagina; (11-5-99)
 - c. Portrays the discharge of bodily fluids; (11-5-99)
 - d. Portrays bestiality; (11-5-99)
 - e. Portrays sexual contact with a minor under age eighteen (18) or a person who appears to be under the age of eighteen (18); (11-5-99)
 - f. Portrays violent activity in a sexual context; or (11-5-99)
 - g. Portrays an act where one (1) of the participants appears to be non-consenting to the act. (11-5-99)
- 31. Offender.** A person under the legal care, custody, supervision or authority of the Board including a person within or without the state pursuant to agreement with another state or a contractor. (11-5-99)

- 32. Parole Commission.** The Idaho Commission of Pardons and Paroles. (11-5-99)
- 33. Parolee.** An offender who is released from a facility to a period of supervision upon grant of parole by a paroling authority. (11-5-99)
- 34. Penological Interests.** The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)
- 35. Person.** An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)
- 36. Photo Identification.** A state issued driver's license, a state issued identification card displaying a photograph, a military issued identification card displaying a photograph or, a current valid passport. (11-5-99)
- 37. Post Order.** A detailed set of guidelines and procedures for each post or area of employee assignment which governs and explains the duties of the employee assigned to the post or area of responsibility. (11-5-99)
- 38. Probationer.** An offender who is placed on a period of supervision on probation by a court of competent jurisdiction. (11-5-99)
- 39. Procedure.** A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)
- 40. Public.** A person in the general public. For purposes of these rules public does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department or, Parole Commission. (11-5-99)
- 41. Public Information Officer.** An employee of the Department designated by the director to be the primary contact person from whom the public and media may request information. (11-5-99)
- 42. Research Activities.** Activities which systematically investigate a phenomenon or series of phenomena. (11-5-99)
- 43. Research On Human Subjects.** Research requiring access to, and participation of, employees of the Department or offenders. (11-5-99)
- 44. Tobacco Products.** Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)
- 45. Vendor.** A person who supplies goods or services to the Board or any operation or facility under the authority of the Board. (11-5-99)
- 46. Visiting Staff.** Employees of the Department or the Parole Commission conducting business in the Department central office building on a regular or irregular basis. (11-5-99)
- 47. Visitor.** A member of the public as defined herein who is approved to visit a department facility. (11-5-99)
- 48. Volunteer.** A person who has volunteered or donated time or services to the Board or a Department operation or facility. (11-5-99)
- 49. Work Site.** Any place where inmates may be found when assigned to a work project. (11-5-99)

005. ABBREVIATIONS.

006. BOARD MEETINGS.

01. Meetings. The Board shall meet at such times and places as they may direct. Meetings shall occur at least quarterly, and may occur more frequently. All business of the Board shall be conducted in compliance with the open meeting law as provided by Sections 67-2340 through 67-2347, Idaho Code. (11-5-99)

02. Yearly Meeting Schedule. The Board may publish a schedule of meetings once per year, which schedule shall be posted in the Department central office. (11-5-99)

03. Agenda. An agenda for each regularly scheduled meeting shall be posted in the Department central office or such other place as the Board may meet at least forty-eight (48) hours prior to the regularly scheduled meeting, except as noted in Subsection 006.06. (11-5-99)

04. Minutes Of Meetings. Summary minutes of each meeting shall be made and shall be available to the public at the Department central office, office of the director. Nothing herein shall be construed to require or allow the disclosure of information concerning the matters discussed in executive session nor any information exempt from disclosure pursuant to Sections 9-335 and 9-340, Idaho Code, or any other exemption provided by law. (11-5-99)

05. Director To Prepare Reports. The Board may order the director to prepare and present such reports and information concerning the operation of the Department as the Board may from time to time require. (11-5-99)

06. Special Meetings. The director or any member of the Board may call for a special meeting of the Board when such meeting becomes necessary to deliberate or decide about some matter requiring attention prior to or in addition to the next regularly scheduled meeting of the Board. An agenda shall be posted at the place of the meeting, or in the Department central office twenty-four (24) hours before such meeting unless the nature of an emergency precludes such notice. (11-5-99)

007. -- 103. (RESERVED).

104. TOBACCO FREE ENVIRONMENT.

The Department and all of its property, facilities, and vehicles shall be maintained tobacco free. No person shall possess or use tobacco products on or in vehicles or properties owned, leased, rented and operated or managed by the Department. No offender, employee, contractor, volunteer, vendor, or intern shall possess or use tobacco products in or on any Department work site. (11-5-99)

01. Applicability. Section 104 is applicable to all persons, regardless of status as public or non-public as defined in Subsection 004.40. (11-5-99)

02. Exception. Tobacco products may be kept in a securely locked vehicle in a Department parking lot. (11-5-99)

105. VICTIM NOTIFICATIONS.

Upon receipt of a victim request for notification made pursuant to Section 19-5306(2), Idaho Code, the Department shall make reasonable efforts to notify the victim when the inmate who is the subject of the request escapes or is released from the custody of the Board other than by the Parole Commission or a court order. (11-5-99)

106. SERVICE OF PROCESS ON DEPARTMENT EMPLOYEES.

The Board authorizes and directs that all service of summons and complaint against the Board, the Department, or any employee of the Department for a cause of action arising out of or related to the scope and course of the actions, duties, or employment of the Board, the Department, or any employee of the Department shall be made upon the deputy attorneys general assigned to the Department in the manner and form required by state and federal rules of procedure. (11-5-99)

107. (RESERVED).

108. IDAHO PUBLIC RECORDS ACT.

01. Custodian of Records. The following Department employees are designated as official custodians of department records for purposes of this section: (11-5-99)

- a. The public information officer; (11-5-99)
- b. The central records manager; (11-5-99)
- c. The administrators of the divisions; (11-5-99)
- d. The facility heads; and (11-5-99)
- e. The Department records clerks. (11-5-99)

02. Records Exempt From Disclosure. The Board has determined that the disclosure of certain records always interferes with the secure and orderly operation of the Department and the public interest in confidentiality clearly outweighs the public interest in disclosure. Those records include emergency plans, blueprints, facility security procedures, facility post orders, investigation records of inmate requests for protective custody, and investigative records of inmate criminal activity. (11-5-99)

a. Pre-sentence investigation reports, addenda and the information contained in or attached to the reports shall not be disclosed to any person except in compliance with Idaho Rule of Criminal Procedure 32. (11-5-99)

b. Civil commitment records differ in confidentiality from other offender records in that the civilly committed individual may not be convicted of a crime or may be held in a Department facility for reasons other than criminal conviction. Requests for information from the file of a civilly committed individual may be referred to department legal counsel to determine applicability of federal and state statutes pertaining to individual privacy and the public's right to know. (11-5-99)

c. Other records may be designated as exempt from disclosure as provided by law. (11-5-99)

109. LITERATURE DISTRIBUTION.

No person shall post any literature or notice on or in any Department property or facility without approval of the director, or designee. (11-5-99)

110. MEDIA AND PUBLIC RELATIONS.

01. Intent Of The Board. It is the intent of the Board that the Department keep the public well informed of its activities and maintain a consistently high community rapport through public presentations and special programs. (11-5-99)

02. Interviews. Requests for an interview with an inmate will be referred to the public information officer. Media representatives requesting an interview with an inmate will be informed of Department Policy and Procedure 110 - Media & Public Relations. No face-to-face or on-camera interviews with inmates will be permitted in Department facilities. (11-5-99)

a. The director may grant exceptions to the no face-to face or on-camera interview rule on a case by case basis. No exceptions may be granted to inmates sentenced to death. Access to inmates under sentence of death is governed by Section 19-2705, Idaho Code. (11-5-99)

b. The director, administrator of the division or head of the facility where the inmate is housed may deny the interview request. (11-5-99)

c. The inmate will be informed of the request for interview and the nature of the interviewer's interest. The inmate may accept, decline or modify the request for interview. Requests for an interview an inmate will be

accommodated by a collect telephone call from the inmate to the media representative. An inmate accepting a request for interview will be provided with the interviewer's telephone number and any specific time frame requested for the interview. (11-5-99)

d. Media coverage of program activities may include brief comment by inmate participants, which are not considered inmate interviews subject to Subsection 110.01. (11-5-99)

111. -- 115. (RESERVED).

116. CUSTODY OF EVIDENCE.

01. Evidence Retained. Items of evidence retained by the Department for use in any proceeding concerning an offender shall be maintained in a safe and secure manner until completion of the proceedings, including appeal. A member of the public claiming an interest in an item of evidence may file a written request with the Department for its return. (11-5-99)

02. Drugs Disposed Of. Items of evidence in the form of narcotics or other usable drugs shall be given to a law enforcement agency for disposal. (11-5-99)

03. Contraband Not Returned. Items of evidence which are now contraband or were contraband at the time they came into the possession of the Department shall not be given to any claimant but may be disposed of according to law. (11-5-99)

117. CENTRAL OFFICE VISITORS.

The Board and Department business should be conducted in a safe and secure environment. Identification of visitors in the Department central office building is necessary to ensure staff safety and building security. All visitors and visiting staff having business at the Department central office building shall identify themselves to the receptionist upon entering the building. (11-5-99)

01. Identification. Identification of frequent visitors and visiting employees may be by visual recognition. Other identification shall be through photo identification. (11-5-99)

02. Visitor Sign-in And Sign-out. All visitors and visiting staff will sign-in the visitor's log, located at the receptionist's desk. All visitors and visiting staff will sign-out when departing. (11-5-99)

118. -- 122. (RESERVED).

123. PUBLIC VISITS AND TOURS OF FACILITIES.

The Department may allow tours of facilities and property according to procedures approved by the director. Tours will generally take place during normal business hours or at times which ensure the safety and convenience of the facility or Department property. (11-5-99)

01. Persons Subject To Facility Rules And Regulations. All persons touring a facility or Department property are subject to the rules, policies, procedures, directives and field memoranda regarding visitation, which are to be explained by the guides prior to the beginning of the tour. (11-5-99)

a. All persons touring a facility or Department property may be subject to search. Discovery of any contraband, as defined in Subsection 004.07, shall be grounds for immediate termination of the tour and referral to local law enforcement for possible prosecution of a criminal offense. (11-5-99)

b. All persons touring a facility must be at least eighteen (18) years old or if under eighteen (18), must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by the director or designee. (11-5-99)

02. Attendance At Events. Under certain circumstances and with an invitation from a Department employee, an individual may attend athletic games and various other events held at a facility. Attendance shall not interfere with penological interests. (11-5-99)

124. -- 133. (RESERVED).

134. RESEARCH REQUESTS.

The Board may allow access to records, employees and offenders in the custody of the Board for purposes of appropriate and ethical research relevant to the Board's penological interests. (11-5-99)

01. Archival Research. Archival research which is based solely on data collection from an existing data base will be conducted according to Idaho public records laws. (11-5-99)

02. Research Conducted On Offenders. Research conducted on offenders may be conducted by professional researchers, including private consultants and Department employees, graduate students supervised by graduate level professionals, or undergraduate students supervised by Department staff undertaking research projects implemented and designed by Department administrators. (11-5-99)

03. Written Proposals Required. Written proposals will be required for all requests to conduct research with offenders. The proposal will be initially submitted to the facility head, or designee, of the site where research is to take place. Written proposals must be submitted ninety (90) days prior to the proposed research start date. (11-5-99)

a. The written proposal will include a statement of the significance of the study, a research hypothesis or problem statement, an estimate of the time parameter for the project's completion, and a clear statement of the research methodology, a definition of the population, the sample selection, the design, ethical procedures, a discussion on dissemination of written research reports and legal parameters. (11-5-99)

b. Written proposals will be reviewed by the facility head, or designee, of the site where the research is to take place. Proposals will be reviewed for compatibility with Department goals, programs and needs for research. Proposals may be rejected or returned for resubmission because there is a lack of compatibility with stated Board or Department goals, programs and needs for research, the research is inappropriate for conducting under the auspices of the Board or Department, or there is a failure to meet the required proposal criteria. (11-5-99)

c. Department employees conducting research at the request of the Department and professional researchers retained by the Department may be exempt from the requirement to submit a written research proposal. (11-5-99)

d. Acceptable research proposals will be forwarded to the division administrator of the division where the research is to take place for final approval. Certain projects involving offenders should be approved with minimal review. Those projects include: (11-5-99)

i. Research conducted in a manner that does not link information gathered to the identity of the participants; (11-5-99)

ii. Research on regular and special instructional techniques; (11-5-99)

iii. Research involving the administration of standard tests, when information from the tests cannot be linked to the identities of the subjects; and (11-5-99)

iv. Research involving surveys or interview procedures where the responses cannot be identified back to the respondents. (11-5-99)

04. Rights Of Offenders. The rights and welfare of any offender research subjects will be safeguarded at all times. (11-5-99)

05. Use Of Offenders In Medical Experimentation Prohibited. The use or participation of offenders in medical, pharmaceutical or cosmetic experiments is expressly prohibited. (11-5-99)

06. Written Report Required. The principal researchers shall be required to provide the Department

with a copy of the completed research results. (11-5-99)

07. Termination Of Project. The director, any division administrator, facility head, or designee may terminate approved research at any time for noncompliance with any rule, Policy or Procedure, directive, or condition previously agree upon, or for cause generated by an emergency situation or at the discretion of the director. (11-5-99)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution personnel will carry out the execution warrant. The facility head of the Idaho Maximum Security Institution shall be the official executioner. (11-5-99)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. If the director determines that a competent lethal injection team cannot be assembled, execution shall take place by firing squad. (11-5-99)

03. Media Coordination. Department personnel will coordinate media activity and provide logistics and communications support. A media center shall be established. The pre-execution briefing will be delivered in the media center. Media witnesses will be chosen pursuant to Department procedure. The selection of media witnesses will occur in the media center. The post-execution briefing will occur in the media center. (11-5-99)

04. Public Information Officer To Handle Media Requests. The director will designate a public information officer to deal with execution-related media requests and releases of information. (11-5-99)

05. Parking And Demonstration Areas Provided. Areas for public and media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (11-5-99)

06. Witnesses To The Execution. An area will be provided for the gathering of official witnesses and media witnesses immediately prior to the scheduled execution. A total of twenty-one (21) occupants is the limit in the execution viewing area at one (1) time. Persons allowed in the execution viewing area during the execution procedures are: (11-5-99)

- a. The injection team as identified by the facility head of the Idaho Maximum Security Institution; (11-5-99)
- b. The director, the administrator of the division of prisons, and the facility head of the Idaho Maximum Security Institution; (11-5-99)
- c. The coroner; (11-5-99)
- d. The sheriff from the county of conviction; (11-5-99)
- e. The prosecuting attorney from the county of conviction; (11-5-99)
- f. A spiritual advisor of the inmate's choosing; (11-5-99)
- g. The sentencing judge; (11-5-99)
- h. A representative from the Governor's office; (11-5-99)
- i. The Attorney General or his representative; (11-5-99)
- j. A representative from The Board; (11-5-99)
- k. The news media pursuant to Subsection 135.03. A maximum of seven (7) news media may attend

as witnesses. (11-5-99)

136. (RESERVED).

137. COUNTY JAIL BED SPACE ASSESSMENT.

The department shall biannually assess and review the county jails to determine bed space available for state sentenced prisoners. (11-5-99)

138. -- 301. (RESERVED).

302. HOUSING INMATES IN NON-DEPARTMENT FACILITIES.

01. Payment Of Daily Fee. The Department shall pay an Idaho county housing a state sentenced inmate a daily fee as established by Section 20-237A, Idaho Code. The fee shall accrue and become payable beginning on the day after the county sheriff provides the notification required by Subsection 302.02. (11-5-99)

a. The fee includes the ordinary daily expenses of housing an inmate, including room and board. (11-5-99)

b. The Department will pay for all ordinary medical and dental expenses of state inmates, subject to the provisions of Subsection 302.05. (11-5-99)

c. The Department shall not make payment for inmates held on pending charges, inmate workers, trustees, and inmates held under court-ordered jurisdiction. (11-5-99)

02. Notification Of New Commitment. Upon receiving into his custody an inmate sentenced to imprisonment and committed to the custody of the Board, the sheriff shall notify the Department. The notification shall be by certified mail or facsimile transmission of a copy of a judgment of conviction. (11-5-99)

03. Accepting The Inmate For Transport To A Department Facility. (11-5-99)

a. A newly sentenced and committed inmate shall not be accepted for transport from a county jail to a Department facility unless the notification required by Subsection 302.02 has been made or unless the director or his designee authorizes the transport in writing; and (11-5-99)

b. If a sheriff moved a state sentenced inmate to the jail of another county, the sheriff immediately notified the Department. (11-5-99)

c. Prior to the date of the transport of the inmate from a county jail to a Department facility the sheriff shall have sent the following information about the inmate to the Department central records bureau: (11-5-99)

i. Judgment and commitment orders from the court; (11-5-99)

ii. Pre-sentence investigation report, if any; (11-5-99)

iii. Jail disciplinary and incident reports, if any; and (11-5-99)

iv. Medical and psychological files. (11-5-99)

04. Conditions of Confinement. The policies and guidelines of the non-department facility shall govern the conditions of the inmate's confinement while at the non-department facility, except as may be modified by this section or agreement between the Board and the non-department facility. (11-5-99)

05. Medical, Dental, Psychological And Psychiatric Care. The Department health authority shall have the responsibility for approving medical, dental, psychological and psychiatric health care for inmates committed to the custody of the Board and housed in non-department facilities. Delivery of routine medical, dental, psychological and psychiatric services shall be the responsibility of the facility where the inmate is held. (11-5-99)

a. All medical services for an offender housed in a non-department facility delivered outside the non-department facility, including consultant appointments, scheduled hospitalizations and dental care, shall be approved by the health authority, or designee prior to occurring, except as noted in this Section. (11-5-99)

b. The health authority, or designee, shall be notified the next working day of any emergency services. (11-5-99)

c. Any extraordinary treatment shall be approved by the health authority prior to treatment. Emergency care which requires possible transport of the inmate out of state requires prior approval by the health authority, or designee. (11-5-99)

d. Failure to make the notifications required by this Section to the health authority or designee will result in the non-department facility being held responsible for any charges or expenses incurred. (11-5-99)

e. Transportation of the inmate to and from appointments shall be the responsibility of the non-department facility. A state sentenced inmate shall not be left without security escort, except as may be approved by the director or designee. (11-5-99)

06. Transporting Inmates. The Department will transport newly committed inmates from the county jail to a Department destination determined by the Department. The sheriff shall transport inmates from a Department facility to the county jail when a court appearance is ordered. Other transport arrangements may be made between the Department and the sheriff or non-department facility head. (11-5-99)

07. Inmate Work Assignments. Inmates committed to the custody of the Board who are being held in county jails or other non-department facility may be assigned to work assignments or work projects subject to this Section. No inmate shall be assigned to a work assignment or project outside of the secure perimeter of the jail or non-department facility. An inmate shall not be outside of the secure perimeter of the jail or non-department facility when not directly supervised or escorted by security personnel, except upon approval of the director or designee. (11-5-99)

303. -- 310. (RESERVED).

311. INMATE MARRIAGES.

Section 32-201, Idaho Code, requires that all marriages in Idaho be accomplished with a license and by solemnization. A person desiring to marry an inmate shall make application for marriage to the facility head of the facility where the inmate is held in custody. The facility head shall have discretion to allow a solemnization ceremony to be conducted within the facility between a member of the public and an inmate of the opposite gender if in the opinion of the facility head doing so will not be contrary to penological interests. (11-5-99)

312. DECEASED INMATES.

01. Notice To Coroner And Family. Upon verification of the death of an inmate, the facility head shall notify the county coroner where the facility is located and the inmate's family as listed in the case management file. (11-5-99)

02. Autopsy And Inquest. The coroner shall determine if an autopsy should be performed in accordance with state law and the interests of the public. The Department shall seek an autopsy in all cases of violent or sudden and unexpected death. The coroner shall hold an inquest as required by Section 31-2802, Idaho Code, unless the autopsy was waived. (11-5-99)

03. Delivery Of The Body To A Funeral Home. As soon as possible after the death of the inmate the facility head shall arrange for the body to be delivered to coroner or a funeral home. The deceased inmate's family, if any, shall be told where the body may be claimed and if the family claims the body, the family shall be responsible for all costs of interment. (11-5-99)

04. Body Not Claimed. In cases where the coroner has performed an autopsy and the body has been

released but not claimed, or where the body has not been claimed within seventy-two (72) hours after death and a reasonable and good faith effort was made to notify the deceased inmate's family, the facility head shall arrange with a funeral home for interment. If there is not sufficient property in the estate of the deceased inmate to pay the necessary expenses of interment, the expenses are a legal charge against the county where the facility is located pursuant to Section 31-2802, Idaho Code. The director of the Department may, in his sole discretion, accept financial responsibility for the costs of interment on behalf of the Department. (11-5-99)

05. Disposition Of Deceased Inmate Property. The deceased inmate's personal property and assets held by the department shall be applied toward the costs of interment first. Any monies or property claimed by the deceased inmate's legal representative shall not be released without a written agreement signed by the legal representative to pay the costs of interment. (11-5-99)

a. The remainder of any money or property after deduction of the costs of interment shall be released to the deceased inmate's legal representative. The legal representative shall present written documentation of the representative's powers and authority. (11-5-99)

b. If no person claims the money or property of the deceased inmate within thirty (30) days from the date of death, the facility head where the deceased inmate was housed at the time of death shall deliver all money or property to the local public administrator for probate pursuant to Title 14, Chapter 1, Idaho Code. (11-5-99)

06. Inmates Housed In Non-Department Facilities. If an inmate in the custody of the Board dies while housed in a non-Department facility, the Department shall pay for costs of disposition of the body, unless other arrangements are stated in an agreement or contract with the non-Department facility or unless the family shall claim the body of the deceased inmate. (11-5-99)

313. -- 400. (RESERVED).

401. MEDICAL CARE.

01. Notification Of Family In Emergency. In the event of a serious injury to an inmate or the hospitalization in an acute care setting of an inmate the facility head of the facility where the inmate was housed shall make reasonable efforts to notify the inmate's family, unless doing so would be contrary to penological interests. (11-5-99)

02. Contracts With Hospitals. The Department may enter into contracts with hospitals in the community where a facility is located to provide for the secure hospital care of inmates in the custody of the Board. (11-5-99)

03. Children Born To Inmates. The Board or the Department shall not be financially or otherwise responsible for the medical or other care of a child born to an offender in the custody of the Board. (11-5-99)

04. Organ Transplant Donations By Inmates. The director or his designee may approve organ donations by inmates only if the recipient is a member of the inmate's immediate family. Any such organ donation by any inmate to an immediate family member shall meet the following criteria: (11-5-99)

a. The Department, or its medical provider if privatized, shall incur no financial liability as a result of any proposed organ donation. All costs related to the proposed organ donation and transplant must be paid by the recipient; (11-5-99)

b. The proposed transplant procedure must fall within acceptable community standards of medical care and established medical practices; (11-5-99)

c. Both the donor and the recipient shall sign a hold harmless and indemnification agreement to the benefit of the Board and the Department; and (11-5-99)

d. The Board expressly prohibits organ donation from the body of an executed inmate. (11-5-99)

402. CORRESPONDENCE WITH INMATES.

01. Incoming Mail. Incoming mail shall be opened and inspected to make sure that it is not contrary to penological interests or is not obscene. Mail may be withheld subject to the provisions of Subsection 402.06. (11-5-99)

a. Books, magazines and newspapers may only be received directly from a legitimate publisher or other legitimate business source. Legitimacy of the source shall be in the sole discretion of the facility head or designee. (11-5-99)

b. Incoming mail with stickers, stamps (other than cancelled postage) or other articles affixed that can be used to conceal contraband will be refused and returned to the sender. (11-5-99)

02. General Mail. All incoming general mail shall be opened, inspected and may be read. Any cash, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated. (11-5-99)

03. Confidential Mail. To be recognized and treated as confidential, mail from a confidential source shall be clearly marked with the name, title and address of the sender. Mail which does not meet the requirements of this section shall be treated as general mail. (11-5-99)

a. Confidential mail should be opened in the presence of the inmate. (11-5-99)

b. Confidential mail should not be read, except that confidential mail be read by the facility head, or designee, if there is a reasonable suspicion that the content of the confidential mail violates Section 402, contains contraband or otherwise compromises penological interests. (11-5-99)

c. Correspondence between an attorney and an inmate client will be treated as confidential and not read if it meets the following criteria: (11-5-99)

i. The envelope containing the correspondence shall be clearly marked on its face with the words "Confidential Legal Mail"; (11-5-99)

ii. The correspondence shall be clearly marked on its face with the words "Attorney-Client Confidential Communication"; and (11-5-99)

iii. The inmate recipient shall not disclose the correspondence to any third person and shall store the correspondence in the inmate's allowed legal property or in a secure area provided by the facility for the storage of excess legal material. Failure to comply with this section shall waive any privilege or confidentiality in the correspondence. (11-5-99)

d. Any confidential sender who includes contraband in an otherwise confidential correspondence or who shall assist or aid an offender in attempting to, or succeeding in, circumventing or violating any Board or Department rule, policy, procedure, directive, field memorandum, or other lawful guideline or order may, at the discretion of the administrator of the division governing the facility where the inmate was housed at the time the mail was received, have all future correspondence treated as general mail. (11-5-99)

04. Prohibited Mail. Mail, including a publication, which poses a threat to the penological interests of the Board or Department may be withheld from the inmates. Contraband will always be withheld without regard to this section. The Board has determined that some types of mail always pose a threat to penological interests. The following types of materials are prohibited: (11-5-99)

a. That which describes how to obtain, build or manufacture drugs, intoxicants, weapons or explosives; (11-5-99)

- b. That which concerns, invites, advocates, aids or abets escapes, riots, insurrections, threats of physical harm to another person, threats of criminal activity, or plans to send contraband into the facility; (11-5-99)
- c. That which is obscene; (11-5-99)
- d. That which is in code; and (11-5-99)
- e. Other materials, which in the opinion of the facility head, present a threat to penological interests. (11-5-99)

05. List Of Prohibited Publications. The Department may issue a list of publications which have been found to consistently violate the provisions of Section 402. These publications will be considered contraband and withheld without regard to and without further notice. The list shall be reviewed at least annually. A particular publication may be reviewed at any time upon a showing that there has been a change in content which removes the reason for the need to withhold the publication. (11-5-99)

06. Withholding Of Prohibited Material. Whenever incoming mail may contain prohibited material as defined herein the facility head shall review the material to determine if it is prohibited or should otherwise be withheld. If it is not to be withheld, it shall be delivered to the inmate. If the facility head determines that the mail should be withheld, the sender shall be given notice that the material was withheld. The sender shall be given notice that the sender may contest the withholding by contacting the facility head, in writing, within fourteen (14) days of the date the notice is sent to the sender. (11-5-99)

403. INMATE RELIGIOUS PRACTICES.

Inmates should have the opportunity to practice the tenets of their respective religious faiths, including access to religious publications, to representatives of their faiths, and to religious counseling, so long as those religious practices do not conflict with penological interests. The Department provides access to religious practices through volunteers. No person shall serve as a religious volunteer who is also on an inmate's visiting list. The Department may develop guidelines and procedures for the conducting of religious activities. (11-5-99)

404. (RESERVED).

405. ATTORNEY VISITS AND COURT PROCEEDINGS.

01. Attorney Visits With Inmates. An inmate's attorney of record or approved legal assistant may visit with the inmate client consistent with Section 405. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting. The facility head or designee may prohibit a visit if there is reason to believe the visit would present a threat to penological interests or if the attorney or approved legal assistant fails to act in an ethical manner. The facility head shall determine whether the visits are to be contact or non-contact visits, except as set forth in Subsection 405.03. (11-5-99)

02. Visiting Hours. Visiting hours shall be designated and posted by the facility head. Visiting shall normally be allowed Monday through Friday, from 8 a.m. through 4 p.m., subject to penological interests. Special visiting hours may be approved by the facility head or designee. Visits must be scheduled twenty-four (24) hours in advance. (11-5-99)

03. Visits With Death Sentenced Inmates. Visits between death sentenced inmates and attorneys shall be made in substantial compliance with Sections 19-2705 and 19-2706, Idaho Code. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting. (11-5-99)

04. Visits With Groups Of Inmates. Visits with groups of inmates shall not be permitted unless verification of class certification or co-parties has been determined in advance through the Office of the Attorney General. Staff shall directly supervise group visits between groups of inmates and attorneys or approved legal assistants. (11-5-99)

05. Court Proceedings Within A Facility. The Department may make a conference or court room within a facility available to a state or federal court for the purpose of holding a hearing or trial upon a claim involving

an inmate or group of inmates when doing so will not be contrary to penological interests. The facility head, in his sole discretion, may allow members of the public who are not witnesses to the proceeding in to the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests.

(11-5-99)

406. -- 409. (RESERVED).

410. INMATE FUNDS RECEIPT AND MAINTENANCE.

01. Account Established In Inmate Name. The Department shall establish an account in each inmate's name at the time of admission to a facility. All monies in the inmate's possession at admission, all monies earned from institutional employment and all monies sent to the inmate from outside sources, other than money which is contraband, shall be placed in this account. The Department shall develop guidelines for the withdrawal of funds by the inmate or to satisfy the inmate's financial obligations.

(11-5-99)

02. Employers Of Work Center Inmates. Any person employing an inmate housed in a community work center shall send the inmate's pay directly to the Department for deposit in the inmate's account.

(11-5-99)

411. -- 502. (RESERVED).

503. TELEPHONES.

Inmates are not allowed to use facility telephones except upon written permission of the facility head or designee. All regular inmate telephone calls shall be made through collect-call only telephones, if provided in the facility. All telephone calls in or out of a facility are subject to being monitored. The facility staff shall make every reasonable effort to identify and not monitor telephone calls between an inmate and the inmate's attorney.

(11-5-99)

504. -- 509. (RESERVED).

510. SEARCHES OF PERSONS AND VEHICLES ENTERING DEPARTMENT FACILITIES.

In order to maintain the secure and orderly operation of the facilities, the Department shall control access to all Department facilities. All persons enter upon or in to a Department property or facility at their own risk and will be required to comply with security and control measures.

(11-5-99)

01. Persons Subject To Search. All persons and vehicles entering a facility or upon Department property are subject to search.

(11-5-99)

02. Photo Identification Required. All persons entering a facility or upon Department property will be required to possess and present on demand photo identification.

(11-5-99)

03. Contraband Prohibited. Any person who shall bring any item or article of contraband on to or in a facility or upon Department property shall be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code.

(11-5-99)

a. Members of the public bringing contraband on to or in a facility or Department property during a visit, tour or other sanctioned activity shall be subject to immediate and permanent cancellation of the visit, tour or other sanctioned activity.

(11-5-99)

b. Vendors, contractors, interns, volunteers or employees bringing contraband on to or in a facility, Department property or inmate work site shall be subject to immediate termination of services as a vendor, contractor, intern, volunteer or employee.

(11-5-99)

511. ACCESS TO DEPARTMENT FACILITIES.

Members of the public shall not have access to any facility or upon Department property except upon approval of the director, administrator of the division governing the facility, the facility head, or their designee. Persons entering on to or in a facility or Department property without approval shall be considered to be trespassing and may be prosecuted according to law.

(11-5-99)

512. -- 600. (RESERVED).

601. PUBLIC PARTICIPATION IN INMATE ATHLETIC EVENTS.

Members of the public may participate in and compete against inmates in athletic events held within or without a facility upon the written approval of the administrator of the division governing the facility. Such competition shall not interfere with inmate work or training programs. (11-5-99)

602. -- 603. (RESERVED).

604. VISITING INMATES.

01. Visitation At the Discretion Of The Facility Head. Inmate visitation is allowed at the discretion of the facility head, or designee. Each division and each facility may promulgate directives or field memoranda to govern inmate visiting. Whether a visit is contact or non-contact shall be in the sole discretion of the facility head, subject to Subsection 405.03. (11-5-99)

02. Visitation Lists. To visit an inmate, a person must apply with the facility, on a form supplied by the facility, to be on the inmate's visiting list. Only persons approved to be on an inmate's visiting list may visit with an inmate except as noted in Subsection 604.03. (11-5-99)

a. Upon approval to be on the inmate's visiting list, the person shall be given a copy of the facility's guidelines governing visiting within the facility. (11-5-99)

b. A person applying to visit an inmate shall be subject to a criminal background investigation. (11-5-99)

03. Special Visits. The facility head, in his sole discretion, may approve a special one-time inmate visit between a person not on the inmate's visiting list and the inmate if doing so will not be contrary to penological interests. Application to the facility head for a special visit shall be made at least twenty-four (24) hours prior to the visit. (11-5-99)

04. Restricted Visitors. The following people shall not be granted permission to visit an inmate except as noted. Nothing in this section shall be construed to grant a right to visit or as a guarantee that an application for visiting will be approved after the minimum period stated or when the other stated conditions are met. Nothing in Section 604 shall grant a right to visit on behalf of an inmate. (11-5-99)

a. A former inmate shall not be approved for visiting unless the former inmate is the immediate family of the inmate and a minimum of six (6) months has passed from the former inmate's release from confinement. (11-5-99)

b. A probationer or parolee shall not be approved for visiting until a minimum of six (6) months from release to probation or parole and then only with the written approval of the supervising probation or parole officer in addition to the approval of the facility head. (11-5-99)

c. A minor shall not visit an inmate unless the minor is the immediate family of the inmate. A minor must be accompanied at all times during the visit by a parent or legal guardian. Proof of legal guardianship may be required by the facility head. (11-5-99)

i. A minor who was the victim of a crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, whether conviction resulted or not, shall not visit an inmate except upon express written recommendation of a licensed counselor in furtherance of the counseling process and when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head. (11-5-99)

ii. A minor claiming relationship to the inmate as a stepchild shall not visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent, if available, authorizing and giving permission for the visit with the inmate. The visiting parent shall be responsible to establish to the satisfaction of the facility head the unavailability of a natural parent. (11-5-99)

d. An inmate who was convicted of any crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, as the terms "crime" and "conviction" are defined in Sections 18-8304 and 19-5506, Idaho Code, where the victim of the crime was a minor shall not visit with any minor except when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head. (11-5-99)

e. A Department employee, volunteer, vendor, intern, or contractor shall not visit an inmate, except if the Department employee, volunteer, vendor, intern, or contractor is the immediate family of the inmate and the facility head provides express written approval. Upon termination of the relationship with the Department conferring the status of employee, volunteer, vendor, intern, or contractor, visiting shall not be approved with an inmate until a minimum of six (6) months from the date of termination of the relationship with the Department. (11-5-99)

f. A person shall not be on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of all inmates. A person shall not be approved to visit an inmate if, within six (6) months prior to the current application, the person was an approved visitor on another inmate's visiting list. (11-5-99)

g. A person claiming a relationship as immediate family of an inmate may be required to provide proof through documentation the existence of the relationship. The level of proof required shall be at the discretion of the facility head. (11-5-99)

h. A person who has pending criminal charges or who is the subject of a criminal investigation shall not be permitted to visit an inmate, except upon express written approval of the facility head, or designee. (11-5-99)

05. Termination Of Visits. A visit may be terminated at any time, for any period of time, including permanently, for violation of any Board rule, Policy and Procedure, facility directive or at the discretion of the facility head or designee. Persons who have had visiting terminated permanently may apply to the administrator of the division governing the facility for reconsideration of the termination decision within fourteen (14) days from the termination of visiting and on an annual basis thereafter. (11-5-99)

06. No Right To Visit Conferred On Inmates. Nothing herein shall be construed to confer any right to visit to or on behalf of any inmate. Nothing herein shall be construed to confer any expectation of visiting for any previously approved visitor with any inmate who has had visiting privileges revoked by the facility head or who is otherwise not allowed to visit. (11-5-99)

605. (RESERVED).

606. VOLUNTEER SERVICES.

01. Volunteer Services Established. The Department may establish a program of volunteer services within the facilities. Based on penological interests, volunteers may be used to enhance and expand inmate programs. (11-5-99)

02. Facility Head Approves Volunteers. The facility head shall be the approving authority for all volunteers. Each facility head may designate a staff member to be responsible for coordination of the volunteer program. (11-5-99)

03. Screening Process. The screening process for volunteers shall include a criminal background check. (11-5-99)

04. Orientation And Training. Orientation and training of volunteers shall include completion of a training curriculum approved by the director. (11-5-99)

607. PUBLIC PARTICIPATION IN PROGRAM ACTIVITIES.

The public may participate in program activities with an inmate or group of inmates upon written approval of the facility head where the inmate is housed, if housed in a Department facility or upon written approval of the administrator of the division of prisons if housed in a non-department facility. (11-5-99)

608. INMATE HOBBY CRAFT.

Inmate hobby craft items may be sold to the public in compliance with division of prison directives. Any such sales shall include an amount for taxes owed and an addition to defray costs incurred by the facility. (11-5-99)

609. -- 610. (RESERVED).

611. BUSINESS WITH INMATES AND LABOR OF INMATES.

01. Guidelines To Be Developed. The Department shall develop guidelines for contracting with federal, state, local governmental entities, and non-profit public service organizations to provide inmates for public work projects. The director shall have the authority to sign any such contracts on behalf of the Department. (11-5-99)

02. Persons Prohibited From Contracting With Inmates. No person may contract with, solicit for contract or employment or employ any inmate without written approval of the director or his designee. (11-5-99)

612. -- 700. (RESERVED).

701. PROBATION AND PAROLE SUPERVISION.

01. Search Of Home, Vehicle And Property. Any person who resides with an offender under the supervision of the Department while on probation or parole or an offender released on furlough shall have the person's home, vehicle and property, both personal and real, subject to search by a probation and parole officer at reasonable times and in a reasonable manner to extent that the home, vehicle and property are accessible to the offender. The officer shall not need a warrant, reasonable suspicion, or probable cause. (11-5-99)

02. Visits At Place Of Employment. Any person who employs an offender under the supervision of the Department while on probation or parole, an offender housed in a community work center, or an offender released on furlough shall have the offender's designated work areas subject to inspection by a probation and parole officer at reasonable times and in a reasonable manner. The officer shall not need a warrant, reasonable suspicion, or probable cause. (11-5-99)

702. -- 705. (RESERVED).

706. COMMUNITY WORK CENTER ADVISORY BOARD.

01. Advisory Boards Established. The Department shall establish a community work center advisory board in each community of the state where a community work center is located. The advisory board shall consist of not less than four (4) nor more than seven (7) members. (11-5-99)

02. Advisory Board Member Selection. Initial selection of advisory board members should be from prominent civic and community leaders. Subsequent selection of advisory board members should be by recruitment by existing advisory board members from among members of the community. (11-5-99)

03. Duties Of The Advisory Board. The advisory board shall meet from time to time as they may determine. The advisory board shall provide advisory input into the establishment of guidelines and procedures for the operation of the community work center. (11-5-99)

707. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.01 - RULES GOVERNING ELECTRICAL INSPECTION TAGS
DOCKET NO. 07-0101-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose is to clarify action dates for enforcement purposes. The rule changes require that the Electrical Bureau receive inspection tags within seven (7) calendar days.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are minor and noncontroversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, at 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

Gary Malmen
Bureau Chief
Electrical Bureau
Division of Building Safety
277 N. 6th
P. O. Box 83720
Boise, Idaho 83720
Phone: (208) 334-2183
Fax: (208) 334-4891

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0101-9901

012. ELECTRICAL CONTRACTORS' INSPECTION TAGS.

Electrical contractors' inspection tags shall be furnished by the Electrical Bureau to licensed electrical contractors upon request. The serial numbers of such tags shall be registered in the name of the electrical contractor to whom they are issued and they shall not be transferable. Electrical inspection tags issued to an electrical contractor shall be used only for electrical installations made by said electrical contractor and for which said electrical contractor assumes full responsibility. (7-1-97)

01. Completion Of Electrical Inspection Tag. For each electrical installation made by an electrical contractor and coming under the provisions of Section 54-1001, Idaho Code, said contractor or his authorized representative shall complete an electrical inspection tag, issued by the Electrical Bureau, giving all pertinent information. The name of the electrical contractor shall be stated and the tag shall be signed by the electrical contractor or his authorized agent. All five copies shall be legible. (7-1-97)

02. Posting Of Electrical Inspection Tag. Before work is commenced, the electrical contractor or his authorized representative shall place part No. 5 of the electrical inspection tag at the location of the service switch and mail or deliver part No. 4 to the power supplier. Parts No. 1 & No. 2, together with the proper inspection fee as herein provided, shall be mailed to received by the Electrical Bureau, P.O. Box 83720, Boise, Idaho, 83720-0028 within seven (7) ~~working~~ calendar days from the time the electrical work is started. Where the total cost of installation is unknown, the minimum inspection fee as listed in IDAPA 07.01.02, "Rules Governing Fees For Electrical Inspections." Subsection 011.06 of the fee schedule shall accompany the tag and arrangements shall be made, in writing, with the Electrical Bureau or its authorized agent for payment of the balance of the fee. In all cases, payment of the total inspection fee shall be made prior to completion of the installation. (7-1-97)(____)

a. The Electrical Bureau may refuse to extend credit to any electrical contractor for late payment or non-payment of any electrical inspection fees when due. In such instance, the contractor shall return all unused permits to the Electrical Bureau forthwith. No further permits will be issued to the contractor unless prepaid in cash or cash equivalent. Such contractor will not be allowed to purchase further permits unless and until all such unused permits have been returned to the Electrical Bureau, Boise Office, and all outstanding fees due have been paid in full. (7-1-97)

b. Failure to post Part 5 of the electrical inspection tag at the required location, or failure to submit parts No. 1 and No. 2 of such tag and the proper inspection fee to the Electrical Bureau within seven (7) calendar days from the time the electrical installation work is commenced will result in the imposition of a double inspection fee. (7-1-97)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose is to comply with statutory changes. The rule changes add provisions for specialty electrical trainees; removes references to application fees and renewal fees; updates terminology; and clarifies electrical contracting work definition.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rules were required by a statutory change and are not expected to be controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, at 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

Gary Malmen
Bureau Chief
Electrical Bureau
Division of Building Safety
277 N. 6th
P. O. Box 83720
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Phone: (208) 334-2183
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0103-9901

011. LICENSE APPLICATION FORMS/APPRENTICE REGISTRATION FORMS.

Application forms for Electrical Contractor, Master Electrician, Journeyman Electrician Licenses, Specialty Electrical Licenses, and registration forms for Apprentice Electricians and Specialty Electrical Trainees shall be printed and made available by the Electrical Bureau of the Division of Building Safety, State of Idaho. ()

01. Application Forms. All applications for licenses and all registrations shall be properly completed, giving all pertinent information, and all signatures shall be notarized. ()

02. Application Fee. All applications for electrical licenses shall be accompanied by the fifteen dollar (\$15) application fee; ~~and~~ apprentice and specialty trainee registration forms shall be accompanied by the ten dollar (\$10) registration fee as provided by Section 54-1014, ~~of the Idaho Code.~~ ()

03. Application Submission. An application for license shall be submitted to the Electrical Bureau and shall be approved by an authorized representative of the Bureau before any examination is given and before any license is issued. ()

04. Examination. An applicant for licensure must take the required examination ~~for his classification~~ within ninety (90) days of the date of application, or the application shall be considered to be null and void. ()

05. License. Following the approval by an authorized representative and the successful completion of the required examination, the applicant must purchase a license prior to engaging in business within the state of Idaho. Applicants who fail to purchase a license within ninety (90) days of the date of successful examination shall be required to reapply for licensure, again obtain the approval of an authorized representative, and re-examine. (7-1-96)()

(BREAK IN CONTINUITY OF SECTIONS)

014. MASTER JOURNEYMAN ELECTRICIAN.

An applicant for a Master ~~Journeyman~~ Electrician license must have at least two (2) years experience as a licensed journeyman electrician as provided in Section 54-1007, Idaho Code. Any person having these qualifications may make application at any time by remitting to the Electrical Bureau a ~~fifteen dollar (\$15)~~ the application fee. Upon ~~being certified approval,~~ he the applicant will be notified and may apply to take the next examination. Upon notification of passing the examination, the applicant must remit the required ~~thirty-five dollar (\$35)~~ fee for the issuance of a master license. A person holding a current master license shall not be required to hold a journeyman license. ~~The license may be renewed any time during the month of July following the issuance of the license, upon payment of the twenty-five dollar (\$25) renewal fee. A master license that has expired may be revived any time within one (1) year from the first day of the July following the issuance of the license, upon payment of the revival fee of thirty-five dollars (\$35).~~ (7-1-97)()

015. ELECTRICAL CONTRACTOR.

01. Qualifications For Electrical Contractor. (4-7-91)

a. Except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the condition that such applicant shall have at least one (1) full-time employee who holds a valid master electrician license or journeyman electrician license issued by the Electrical Bureau, and has held a valid journeyman electrician's license for a period of not less than two (2) years, during which time he was actively employed as a journeyman electrician for a minimum of two ~~four~~ thousand (~~24,000~~) hours ~~per year~~, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. An individual electrical contractor may act as his own supervising journeyman electrician upon the condition that he holds a valid master electrician license or journeyman electrician license issued by the Electrical Bureau, and has held a valid journeyman electrician's license for a period of not less than two (2) years, during which time he was actively employed as a journeyman

electrician for a minimum of two ~~four~~ thousand (24,000) hours ~~per year~~. The supervising journeyman electrician shall be available during working hours to carry out the duties of supervising journeymen, as set forth herein.

(4-1-91)()

b. Those duties include assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Bureau; and any person designated under Subsection 015.01.a., and the contractor he represents, shall each notify the Bureau in writing if the supervising journeyman's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising journeyman's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising journeyman is qualified by the Bureau.

(7-27-94)

02. Required Signatures On Application. An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application. The application shall be countersigned by the supervising journeyman electrician. (4-1-91)

03. ~~Submission Of Application~~ Electrical Contracting Work Defined. ~~Application for An electrical contractor's license shall be submitted prior to the time the applicant commences issued by the Division of Building Safety must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. For the purposes of this paragraph, "attempts to act as an electrical contractor" includes, but is not limited to, submitting a bid to perform electrical contracting work in this state.~~ ()

a. "Electrical contracting work" includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. ()

b. Any person or entity providing or offering to provide electrical contracting services, including, but not limited to, submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. ()

c. Any person or entity, not otherwise than those so exempted, who performs such installation, maintenance, or repair or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not he receives any compensation for such work is received. Willful or repeated failure to make timely application for an electrical contractor's license or for the renewal or revival thereof shall constitute grounds for license suspension, revocation or denial for lack of fitness and qualification. (4-1-91)()

04. Previous Revocation. Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. (1-14-87)

05. Reviving An Expired License. Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws and/or rules applicable to electrical contractors. (4-1-91)

06. Qualification For Supervising Journeyman. A journeyman electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising journeyman, nor shall said application be approved if he does countersign said application as the supervising journeyman, if said journeyman had his Idaho Electrical Contractor license revoked for cause under Section 54-1009, Idaho Code. A supervising journeyman shall not countersign for more than one (1) contractor. A journeyman who is a full time employee of a company, corporation, firm or association with an industrial account may sign as supervising journeyman for that industrial account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Subsections 015.01.a. and 015.01.b. (7-1-97)

07. Failure To Correct Defects In Electrical Installations. If a journeyman countersigns an electrical

contractor license application pursuant to Subsection 015.03 and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Electrical Bureau shall have the power to suspend or revoke said journeyman's license pursuant to Section 54-1009, Idaho Code. (1-14-87)

08. Overcharging Of Fees. It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division of Building Safety, Electrical Bureau, and the fee remitted by the contractor to the Bureau is less than the fee actually charged and collected by him. (4-6-83)

09. Electrical Contractor's Examination. (9-1-94)

a. Each electrical contractor's license applicant must pass a contractor's examination to be administered by the Bureau or its designee. Any applicant which purports to be a non-individual (i.e., corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. (9-1-94)

b. Any person designated under Subsection 015.09.a., and the contractor he represents, shall each notify the Bureau in writing if the designee's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor. (9-1-94)

c. Passage of the contractor's examination shall only be required for new electrical contractor license applications submitted after the effective date of this rule, September 1, 1994, and shall not apply to license renewal or revival under Section 54-1013, Idaho Code. (9-1-94)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
DOCKET NO. 07-0104-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose is to recognize a new specialty within the electrical industry. The rule change adds manufacturing or assembly equipment as an electrical specialty.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rules were required by a statutory change and are not expected to be controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, at 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

Gary Malmen
Bureau Chief
Electrical Bureau
Division of Building Safety
277 N. 6th
P. O. Box 83720
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Phone: (208) 334-2183
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-9901

014. ELECTRICAL SPECIALTIES REQUIRING A SPECIAL LICENSE.

The following shall be considered as electrical specialties, the practice of which shall require a special license:

(4-9-79)

01. Elevator, Dumbwaiter, Escalator, Or Moving-Walk Electrical. Any person qualifying for and having in his possession a current elevator electrical license may install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. He shall be employed by a licensed elevator electrical contractor and his installation shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty.

(4-9-79)

02. Sign Electrical. Any person qualifying for and having in his possession a current sign electrical license may install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; providing the disconnecting means is located on the sign or within a distance of two (2) feet and in sight therefrom. He shall be employed by a licensed sign electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising journeyman except for work within his specialty.

(4-9-79)

03. ~~Creation Of Manufacturing Or Assembling Equipment Specialty Contractor And Specialty Electrician.~~ ~~(7-1-94)()~~

a. ~~Effective July 1, 1994, the category of licensed specialty manufacturing or assembling equipment contractor is created. Effective July 1, 1994, any person qualifying for and having in his possession a current license in the category of A licensed specialty manufacturing or assembling equipment electrician must be employed by a licensed specialty manufacturing or assembling equipment contractor in order to work in this category. The holder of a specialty license in this category may not countersign a contractor's license application as supervising journeyman except for work within this specialty.~~ ~~(7-1-94)()~~

b. Any person licensed pursuant to Subsection 014.03.a. may install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. All wiring completed shall meet all requirements of Title 54, Chapter 10, Idaho Code, all rules promulgated pursuant thereto, and the most current edition of the National Electrical Code.

(7-1-94)

04. Limited Energy Electrical License. (9-17-85)

a. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC.

(7-1-99)

b. Limited energy systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems.

(7-1-99)

c. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy electrical license and must be employed by a licensed limited energy specialty electrical contractor or electrical contractor. The holder of a specialty license may only countersign a contractor's application as a supervising journeyman for work within his specialty.

(7-1-98)

05. Irrigation Sprinkler Electrical. Any person qualifying for and having in his possession, an irrigation system electrical license may install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. All such installations performed by individuals under this section shall be done in accordance with the applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license is contingent upon the granting of a specialty electrical license to an employee and whose installations shall be limited to this category. The holder of a specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. (1-1-92)

06. Well Driller And Water Pump Installer Electrical Licenses. All such installations performed by individuals under this section shall be done in accordance with the applicable provisions of the approved National Electrical Code. He shall be employed by a licensed well driller and water pump installer electrical contractor whose installations shall be limited to this category. The holder of such specialty license may not countersign a contractor's license application as supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations: (1-14-87)

a. Single or three (3) phase well pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device installed by others. (7-1-98)

b. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. (7-1-98)

c. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. (1-14-87)

07. Refrigeration, Heating, And Air-Conditioning Electrical Installer. All such installation, maintenance, and repair performed by individuals under this section shall be done in accordance with applicable provisions of the National Electrical Code. He shall be employed by a licensed electrical contractor whose license shall be covered by this category. The holder of such specialty license may not countersign a contractor's license application as a supervising specialty journeyman except for work in his specialty. Any person currently licensed in this category may perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: (9-17-85)

a. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

b. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

c. Refrigeration, Air-Conditioning and Heating Systems (three-phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (9-17-85)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
DOCKET NO. 07-0104-9902
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule adds language pursuant to legislation to establish requirements for specialty electricians and specialty electrical trainees.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rule is non-controversial and implements legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, at 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August 1999.

Gary Malmen
Bureau Chief
Electrical Bureau
Division of Building Safety
277 N. 6th
P. O. Box 83720
Boise, Idaho 83720
Phone: (208) 334-2183
Fax: (208) 334-4891

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-9902

013. SPECIALTY EXPERIENCE REQUIREMENT.

~~The experience requirement for such specialty license shall be two (2) years of experience with the type of installation for which the license is being applied for. (11-22-77)~~

01. Specialty Journeyman Electrician. An applicant for a specialty journeyman electrician license must have at least two (2) years experience with the type of installation for which the license is being applied for, in compliance with the requirements of the state in which the experience was received, or as a specialty electrical trainee making electrical installations in accordance with the requirements as stated herein. ()

02. Specialty Electrical Trainee. A specialty electrical trainee shall be required to work two (2) years, defined as a minimum of four thousand (4,000) hours of work experience, under the constant on-the-job supervision of a specialty journeyman electrician of the same specialty category to qualify for testing as a specialty journeyman electrician. A person wishing to become a specialty electrical trainee shall register with the Division of Building Safety prior to going to work. Said person shall carry a current registration certificate on his person at all times and shall present it upon request to personnel of the Division of Building Safety for examination. Each specialty electrical trainee shall re-register prior to each July 1, furnishing proof of work experience performed during the previous year and notarized letters from each employer. This requirement shall continue each year until the minimum requirements of Chapter 10, Title 54, Idaho Code, have been fulfilled. Any specialty electrical trainee failing to re-register by August 1 of each year, shall pay an additional fee of ten dollars (\$10) to receive his registration certificate. Time shall not be credited while the trainee is inactive or not registered. ()

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.05 - RULES GOVERNING EXAMINATIONS
DOCKET NO. 07-0105-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose is to effectuate statutory changes. The rule changes clarify authority of the board and administrator; and delete references to passing scores in various sections and consolidates them into a new section.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rules were required by a statutory change and are not expected to be controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary Malmen, Bureau Chief, at 334-2183.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

Gary Malmen
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0105-9901

011. EXAMINATIONS.

The Electrical Board shall review and approve all versions of Examinations for all classifications under the Electrical Laws and Rules and Regulations shall be approved by the Electrical Bureau Chief and the Idaho Electrical Board prior to administration. No license shall be issued unless the applicant receives a final grade of seventy percent (70%) or higher, or, for the Master Journeyman license, seventy-five percent (75%) or higher. (1-14-87)(____)

01. Frequency Of Conducting Of Examinations. Examinations for all classifications under the Electrical Laws and Rules and Regulations will be given a minimum of four (4) times each year in at least three (3) locations: One (1) to be in northern Idaho, one (1) to be in central Idaho, and one (1) to be in southern Idaho. The applicant will be notified in writing of the date, time, and location at which the examination will be given, following approval of the application. (1-14-87)(____)

02. Professional Testing Services. In lieu of the administration by the Idaho Electrical Board of the examination for licenses pursuant to this rule, the Board may contract with a professional testing service, to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service. After taking such examination, the applicant shall provide the board with an official copy of his or her test score, which must be seventy percent (70%) or higher, or, for the master journeyman license, seventy-five percent (75%) or higher, before the license will be granted. If the examination is conducted in this fashion, the Board may charge and retain the application fee provided for by Section 54-1014 of the Idaho Code to cover the cost of reviewing the applicant's application. (12-17-92)(____)

03. Required Scores. The following scores are considered minimum for passing and are required to be achieved by the applicant prior to issuance of the appropriate license or certification.

<u>Journeyman Electrician</u>	<u>70%</u>
<u>Specialty Journeyman Electrician</u>	<u>70%</u>
<u>Electrical Contractor</u>	<u>70%</u>
<u>Specialty Electrical Contractor</u>	<u>70%</u>
<u>Electrical Inspector</u>	<u>70%</u>
<u>Master Electrician</u>	<u>75%</u>

An applicant receiving a score of less than seventy percent (70%), or, for the master journeyman license, of less than seventy-five percent (75%), a passing score may be reexamined at the expiration of thirty (30) days from the date of the failed examination. After a third failure, an applicant may not be tested before the expiration of one (1) year. Subsequent failures will require an additional one (1) year restriction from testing. (12-17-92)(____)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 54-1006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999 Idaho Administrative Bulletin, Volume 99-7, pages 13 and 14.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Bureau Chief, (208) 334-2183.

DATED this 5th day of August, 1999.

Gary Malmen
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Telephone: (208) 334-2183
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IDAPA 07
TITLE 01
Chapter 06

RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-7, July 7, 1999, pages 13 and 14.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.07 - RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS

DOCKET NO. 07-0107-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 54-1006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 4, 1999 Idaho Administrative Bulletin, Volume 99-8, pages 12 and 13.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Bureau Chief, (208) 334-2183.

DATED this 25th day of August 1999.

Gary Malmen
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IDAPA 07
TITLE 01
Chapter 07

RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-8, August 4, 1999, pages 13 and 14.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING
DOCKET NO. 07-0311-9901
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to 44-2102(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 4, 1999 Idaho Administrative Bulletin, Volume 99-8, pages 14 and 15.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Programs Manager, (208) 334-3896.

DATED this 25th day of August 1999.

Connie J Mumm
Division of Building Safety
277 N. 6th Street, Suite 100
P. O. Box 83720
Boise, ID 83720
Telephone: (208) 334-3950
Facsimile: (208) 334-2683

IDAPA 07
TITLE 03
Chapter 11

RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-8, August 4, 1999, pages 14 and 15.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.12 - RULES GOVERNING MANUFACTURED/MOBILE HOME SETUP CODE
DOCKET NO. 07-0312-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 44-2201(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rule change will provide an updated, comprehensive, and more user friendly installation standard. IDAPA 07.03.12 has been revised in its entirety, including incorporation by reference industry developed standards intended for statewide use in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. The proposed updated installation standards were developed by the manufactured housing industry for the purpose of replacing Idaho's existing manufactured housing setup code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Programs Manager, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-0060, (208) 334-3896.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0312-9901

IDAPA 07
TITLE 03
Chapter 12

07.03.12 - RULES GOVERNING MANUFACTURED/~~MOBILE HOME SETUP CODE~~ INSTALLATIONS

000. LEGAL AUTHORITY.

In accordance with Section 44-240201, Idaho Code, the ~~director~~ administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. The administrator may also promulgate rules providing for variances from the installation requirements specified in Section 44-2204 and 44-2205, Idaho Code, or rules specifying standardized installation instructions for manufacturers, or both. (5-25-94)()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as 07.03.12, "Rules Governing Manufactured/~~Mobile Home Setup Code~~ Installations," Division of Building Safety, IDAPA 07.03.12. ()

02. Scope. These rules apply to the installation of manufactured/mobile homes used for purposes of human habitation (living, sleeping) in the state of Idaho. (5-25-94)()

004. DEFINITIONS INCORPORATION BY REFERENCE.

~~For the purposes of this chapter the definitions contained in IDAPA 07.03.11.004 apply unless a different meaning is indicated by the text of the rule. The Idaho Manufactured Home Installation Standard is hereby incorporated by reference into IDAPA 07.03.12, "Rules Governing Manufactured Home Installations". A current copy is available for review or copying at the office of the Division of Building Safety.~~ (5-25-94)()

005. MINIMUM STANDARDS CONTAINED HEREIN APPLICATION - COMPLIANCE.

~~The installation instructions (setup code) contained in this chapter are considered to be minimum standards. Cities and counties may adopt more stringent standards as long as those standards do not conflict with the standards contained in this chapter or Title 44, Chapter 22, Idaho Code.~~ (5-25-94)()

01. Application -- State Preemption. The standards referred to in this chapter are considered to be a comprehensive statement of all applicable standards which apply to the installation, alteration or repair of manufactured or mobile homes in Idaho. Cities and counties may not adopt or enforce more or less stringent standards, except as permitted by Section 67-6509(A) Idaho Code, as it pertains to the siting of manufactured homes in residential areas. ()

02. Compliance -- Disciplinary Action Against Licensees. Failure to comply with these standards constitutes grounds for imposition of discipline as provided in Title 44, Chapters 21 and 22, Idaho Code and IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Licensing," and 07.03.12, "Rules Governing Manufactured Home Installations". ()

(BREAK IN CONTINUITY OF SECTIONS)

012. ~~MANUFACTURED/MOBILE HOME~~ USE OF MANUFACTURERS' INSTALLATION INSTRUCTIONS.

~~**01. Installation Instructions.** All manufactured/mobile homes must be installed in accordance with the manufacturer's instructions. Where the manufacturer's instructions are not readily available from the~~

~~manufacturer, the manufactured/mobile home must be installed in accordance with the provisions of Title 44, Chapter 22, Idaho Code, and 07.03.12, "Rules Governing Manufactured/Mobile Home Setup Code". Manufacturer's installation instructions may be used only where specifically permitted within Subsections 301.04 and 304.03 of the standards referenced in Section 005 of this chapter. All manufactured/mobile homes must be installed in accordance with all other applicable state laws pertaining to utility connection requirements. If the home is installed in accordance with the manufacturer's specifications, a copy of those specifications shall be in the home and in plain view at the time of setup and inspection. If the home is installed in accordance with the provisions of 07.03.12, "Rules Governing Manufactured/Mobile Home Setup Code," then a copy of the state setup requirements shall be included with the home. All dimensions required by the provisions of 07.03.12, "Rules Governing Manufactured/Mobile Home Setup Code," are considered to be nominal.~~ (5-25-94)()

~~**02. Ground Improvement.** The homeowner or park owner must ensure that the ground on which a manufactured/mobile home is to be installed has been improved as necessary to provide a proper base for the unit and that the area beneath it has adequate drainage.~~ (5-25-94)

013. INSTALLATION PERMITS AND INSPECTIONS REQUIRED.

01. Installation Permit. The owner or the installer of a manufactured/mobile home must obtain an installation permit as required by city or county ordinance before installing a manufactured/mobile home that will be used as a residence on a building site or in a park. The installer must have a current and valid license in effect at the time of the application for the installation permit. (5-25-94)

02. City Or County Jurisdiction. Cities and counties, which have by ordinance adopted a building code, shall establish a permit process for the installation of all manufactured/mobile homes within their respective jurisdictions and shall provide for inspection of all work required by ~~the manufacturer's installation instructions or the installation and setup provisions of Title 44, Chapter 22, Idaho Code, and 07.03.12, "Rules Governing Manufactured/Mobile Home Setup Code," whichever is applicable,~~ the Idaho Manufactured Home Installation, pursuant to the provisions of Section 44-220+2, Idaho Code. Fees for installation permits and inspections shall be as established by the city or county having jurisdiction. (5-25-94)()

014. SUPERVISION BY RESPONSIBLE MANAGING EMPLOYEE.

A responsible managing employee, as the term is defined in IDAPA 07.03.11-2, "Rules Governing Manufactured/Mobile Home Licensing," Subsection 004.20, shall personally supervise any installation of a manufactured/mobile home at its place of occupancy unless the installer licensee personally supervises such installation. (5-25-94)()

015. MANUFACTURER'S INSTRUCTIONS ON STABILIZING SYSTEMS.

~~Manufacturer's instructions on stabilizing systems must be used unless the manufacturer's instructions are not readily available. If the manufacturer's instructions are not readily available, then the manufactured/mobile home must be installed in accordance with the provisions of 07.03.12, "Rules Governing Manufactured/Mobile Home Setup Code".~~ (5-25-94)

~~**01. Manufacturer's Instructions.** Installation instructions supplied by the manufacturer of the manufactured/mobile home specifying the location and capacity of stabilizing devices may be used. If the use of perimeter stabilizing systems is required in the manufacturer's instructions, such systems must be used.~~ (5-25-94)

~~**02 Copy Of Manufacturer's Instructions.** If a manufactured/mobile home is installed pursuant to the manufacturer's installation instructions, a copy of such instructions must be delivered to the manufactured/mobile home owner by the dealer or installer at the time of sale.~~ (5-25-94)

016. REQUIREMENTS FOR INSTALLING STABILIZING SYSTEMS.

Manufactured/mobile homes not installed pursuant to the manufacturer's installation instructions must be installed according to Section 016. (5-25-94)

01. Footings. Support footings must be constructed of: (5-25-94)

a. Precast or poured in-place concrete, not less than sixteen (16) inches by sixteen (16) inches by four (4) inches; or (5-25-94)

b. Two (2) concrete pads, four (4) inches by eight (8) inches by sixteen (16) inches, installed side-by-side; or (5-25-94)

e. Other materials and sizes approved by the Division which provide equivalent load-bearing capacity and resistance to decay or when justified by soil compaction analysis. (5-25-94)

02. Supports. Supports must be one (1) of the following: (5-25-94)

a. ~~Steel piers sufficient to carry the weight of the manufactured/mobile home must be installed under the supporting frame, spaced at a distance not exceeding six (6) feet on center, with the end piers not further than two (2) feet from the end of the manufactured/mobile home. No steel pier may be used unless it has been approved by the Division and has a minimum three thousand (3,000) pounds of compressive strength;~~ (5-25-94)

b. ~~Concrete, cinder or pumice block piers, minimum of three thousand (3,000) pounds compressive strength, must be installed under the supporting frame, spaced at a distance not exceeding six (6) feet on center, with the piers not further than two (2) feet from each end of the manufactured/mobile home. Concrete, cinder or pumice block piers must be constructed of blocks eight (8) inches by eight (8) inches by sixteen (16) inches. The cells of the blocks must be vertical and placed perpendicular (crosswise) to the main frame. A wood plate measuring eight (8) inches by sixteen (16) inches, not exceeding one and one-half (1 1/2) inches in thickness, and shims that transfer loads uniformly, not exceeding one (1) inch in thickness, shall be permitted to be used to fill any gap between the top of the pier and the main frame. Two (2) one (1) inch or four (4) inch solid concrete blocks shall be permitted to be used to fill the remainder of any gap. Shims shall be at least nominal four (4) inches wide and six (6) inches long and shall be fitted and driven tight between the wood plate or pier and main frame. No other pier support material will be approved unless it provides equivalent load bearing capacity and can be documented by engineering calculations. All materials having ground contact must be resistant to decay;~~ (5-25-94)

e. ~~Block piers more than forty (40) inches but not more than eighty (80) inches in height must be constructed by using double tiers with interlocking concrete, cinder, or pumice blocks. Block piers more than sixty (60) inches in height must be constructed of concrete, cinder, or pumice blocks with one-half (1/2) inch reinforcing steel bars inserted vertically and the cells of the blocks poured solid with concrete.~~ (5-25-94)

03. Multiple Sections. A manufactured/mobile home of more than one (1) section must have center line blocking at end walls and at any other point of connection of the sections of the manufactured/mobile home that are at a ridge beam bearing support. (5-25-94)

04. Clearance. The house will be set so that seventy five percent (75%) of the area under the home has at least twelve (12) inches of clearance between the bottom of the I-beam and the ground level. (5-25-94)

05. Ventilation. Whatever type of fascia or skirting is installed on any manufactured/mobile home shall be properly vented, with no less than eight (8) minimum ninety-six (96) square inch vents (net size of screen) spaced no more than twenty-five (25) feet apart, with one (1) vent no more than three (3) feet from each corner in both directions. (5-25-94)

017. REQUIREMENTS FOR PERMANENT FOUNDATIONS.

The following requirements shall apply to the construction of a permanent foundation. Either system A or B shall be acceptable. (5-25-94)

01. System A. (5-25-94)

a. I-beam ribbon footings: ribbon footings shall be poured concrete continuous footings at least twenty (20) inches wide and eight (8) inches deep; placed on firm, undisturbed soil below the prevailing frost line. Slabs shall be level and parallel to, and centered below, the main frame beams and extending to the end of the frames. Slabs shall contain three (3) Number 4 steel reinforcing rods evenly spaced; (5-25-94)

b. Piers: blocking shall have a maximum spacing of six (6) feet; (5-25-94)

e. ~~Center line support: the minimum center line support base block shall be sixteen (16) inches by sixteen (16) inches by four (4) inches. However, when manufacturer's setup instructions require larger supports, those requirements shall be met;~~ (5-25-94)

d. ~~Anchoring: weather-resistant anchor ties shall be embedded in the outside ribbon footing within three (3) feet of each end and a maximum of twelve (12) feet between centers and shall be tied to the I-beam with cable or zinc-coated strapping. Anchor ties shall be designed for a three thousand one hundred fifty pound (3,150) working load and withstand a fifty percent (50%) overload (four thousand seven hundred fifty (4,750) pounds).~~ (5-25-94)

e. ~~Crawl space enclosure: the crawl space beneath the home shall have a perimeter fascia enclosure adequately secured to the perimeter of the home and designed and supported to resist all forces to which it may be subject, without transmitting those forces to the building superstructure. The bottom of the enclosure shall be below the prevailing frost level. Minimum venting of the perimeter fascia enclosure shall be one (1) minimum 96-square-inch vent (net size of screen) every twenty-five (25) feet, and to include one three (3) feet from each corner in both directions. No fascia shall have less than eight (8) vents.~~ (5-25-94)

02 System B. (5-25-94)

a. ~~Perimeter support foundation: the foundation shall be erected with or without a basement on site with a minimum of six (6) inch by sixteen (16) inch poured concrete perimeter footing below prevailing frost level. The foundation shall have a minimum twenty-four (24) inch high, adequately vented, perimeter stemwall of six (6) inch poured concrete, or eight (8) inch thick mortared concrete block with Number 3 reinforcing rebar every forty-eight (48) inches, or all weather wood with minimum one-half (1/2) inch plywood fascia secured with galvanized 8d nails to two (2) inch by four (4) inch plates and studs on sixteen (16) inch centers. The concrete or masonry wall shall have a minimum two (2) inch by four (4) inch construction redwood or pressure-treated sill plate secured six (6) feet on center with one-half (1/2) inch anchor bolts. The home shall be supported by the perimeter foundation.~~ (5-25-94)

b. ~~Piers: blocking shall be a maximum of twelve (12) feet on center with a minimum sixteen (16) inches by sixteen (16) inches by four (4) inch concrete pads on undisturbed soil.~~ (5-25-94)

e. ~~Anchoring: weather-resistant anchoring devices shall be embedded in the sidewall footing thirty-six (36) inches from each end and a maximum of twelve (12) feet between centers and shall be tied to the I-frame with cable or zinc-coated strapping designed for a four thousand seven hundred fifty (4,750) pound work load.~~ (5-25-94)

d. ~~Center line support: the center line of the home shall be supported with minimum twenty-four (24) inch by twenty-four (24) inch by eight (8) inch poured concrete footing located at each structural load-bearing support beam. Each pad shall have four (4) Number 4 rebar reinforcing and shall be placed on undisturbed soil.~~ (5-25-94)

03. General Considerations for Both Systems A and B. (5-25-94)

a. ~~Center line blocking: a manufactured/mobile home of more than one (1) section must have center-line blocking at end walls and at any other point of connection of the sections of the manufactured/mobile home that are at a ridge beam bearing support.~~ (5-25-94)

b. ~~Vapor barrier: the ground in the crawl space shall be covered by a minimum four (4) mil visqueen vapor barrier, if required by the manufacturer.~~ (5-25-94)

e. ~~Access: a crawl space between the bottom floor structure of the manufactured/mobile home and the footing pad must be at least twenty-four (24) inches in height. Access to the crawl space must be by an opening which is eighteen (18) inches by twenty-four (24) inches or larger. The opening shall have a tight fitting cover provided. Pipes, ducts, and other obstructions other than structural materials must not interfere with access to or within the space below the floor. Crawl spaces and other spaces below floors must be ventilated by an approved mechanical means or by no less than eight (8), minimum ninety-six (96) square-inch, vents (net size of screen) to be spaced no more than twenty-five (25) feet apart, with one (1) vent no more than three (3) feet from each corner in both~~

~~directions.~~

~~(5-25-94)~~

~~d. Site grading: exterior grade shall be a minimum of eight (8) inches below the bottom of the unit.
The ground shall slope at least six (6) inches for ten (10) feet around the home.~~

~~(5-25-94)~~

0185. LICENSE SUSPENSION OR REVOCATION.

The ~~Director~~ administrator may suspend or revoke any license for any wilful or repeated violation of 07.03.12, "Rules Governing Manufactured/Mobile Home ~~Setup Code~~ Installations," or Title 44, Chapters 21 or 22, Idaho Code. Any such proceeding shall be handled as a contested case and according to the procedures set forth in IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Licensing," Title 67, Chapter 52, Idaho Code, and the Attorney General's Model Rules of Practice and Procedure. ~~(5-25-94)~~(____)

0196. -- 999. (RESERVED).

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION

08.01.06 - STATE STUDENT INCENTIVE GRANT PROGRAM

DOCKET NO. 08-0106-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 33-105, Idaho Code, Title IV, Part A. Subpart 4, Higher Education Act of 1965 as amended, and Compilation of Student Aid Regulations 34 CFR 692.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, October 21, 1999 at 8:15 a.m.
College of Southern Idaho in the Taylor Administration Building,
Twin Falls, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To change the State Student Incentive Grant program to conform to the federal changes to the Leveraging Educational Assistance Partnership program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee imposed.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rule changes are not controversial and will not have a negative impact on students.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lynn Humphrey at 334-2270.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 27th day of August, 1999

Lynn Humphrey
Academic Program Coordinator
Idaho State Board of Education
650 W. State Street
PO Box 83720
Boise, ID 83720-0037
Phone: (208)334-2270 and fax: 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0106-9901

IDAPA 08
TITLE 01
Chapter 06

~~STATE STUDENT INCENTIVE GRANT LEVERAGING EDUCATIONAL~~
~~ASSISTANCE PARTNERSHIP PROGRAM~~

000. --004. (RESERVED) LEGAL AUTHORITY.

In accordance with Section 33-105, Idaho Code, the Idaho State Board of Education shall promulgate rules implementing the provisions of Title IV, Part A, Subpart 4 of the Higher Education Act of 1965 as amended and Compilation of Student Aid Regulations 34 CFR 692. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 08.01.06, "Leveraging Educational Assistance Partnership Program," IDAPA 08, Title 01, Chapter 06. ()

02. Scope. These rules constitute the requirements for the Leveraging Educational Assistance Partnership Program in Idaho. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 64-5201(19)(b)(iv) Idaho Code any written interpretation of the rules of this chapter are available at the Office of the State Board of Education located at 650 W. State Street, Room 307, Boise, Idaho 83702. ()

003. ADMINISTRATIVE APPEAL.

Unless otherwise provided for in the Rules of the State Board of Education or in the State Board of Education Governing Policies and Procedures, all administrative appeals allowed by law shall be conducted as provided herein. ()

004. (RESERVED).

005. DEFINITIONS.

The following definitions are used in these rules unless the context otherwise requires. (7-1-93)

01. Eligible Postsecondary Educational Institution. An educational organization participating in one (1) or more programs of student financial aid within the State authorized by state or federal legislation. (7-1-93)

a. Public postsecondary institution. A public postsecondary organization governed or supervised by the State Board of Education and the Board of Regents of the University of Idaho; by a board of trustees of a junior community college established pursuant to the provisions of Section 33-2106, Idaho Code, as amended; or by the State Board of Vocational Professional Technical Education. (7-1-93)()

b. Private or other nonprofit institution. An educational organization which is operated privately and not for profit under the control of an independent board and not directly controlled or administered by a public or political subdivision. (7-1-93)

c. Proprietary postsecondary institution. An educational organization that is operated for profit; is authorized to provide not less than a six month or equivalent program of training to prepare students for gainful employment in a recognized occupation; has been in existence for at least five (5) consecutive years; and is accredited by a national accrediting agency as defined by the United States Department of Education meets the definition of "proprietary institution of higher education" in Section 481(b) of the Higher Education Act of 1965, as amended, except that the institution must have been in existence for at least five (5) consecutive years; has a current valid Program Participation Agreement showing Pell Grant eligibility; and has a federal student loan default rate of twenty

percent (20%) or less.

(7-1-93)()

02. Educational Costs. Student costs for tuition, fees, room and board, transportation, and expenses reasonably related to attendance at a postsecondary educational institution. (7-1-93)

03. Full-Time Student. An individual carrying a full-time workload, other than correspondence, as measured by both coursework or other activities required by the institution and the tuition and fees normally charged for full-time study by that institution. (7-1-93)

04. Half-Time Student. An individual enrolled in and carrying not less than one-half (1/2) of the number of credit hours which would qualify that individual as a full-time student at the postsecondary educational institution in which the individual is enrolled. (7-1-93)

05. Part-Time Student. An individual enrolled in and carrying less than one-half of the number of credit hours which would qualify that individual as a full-time student at a postsecondary educational institution in which the individual is enrolled. (7-1-93)

06. Graduate Student. A student who has a baccalaureate degree. (7-1-93)

07. Enrollment. The establishment and maintenance of an individual's status as a student in a postsecondary educational institution regardless of the term used at the institution to describe such status. (7-1-93)

08. Substantial Financial Need. The difference between the student's net financial assets available, including those available from a spouse, parents, parent, guardian, or other person to whom he looks for support or who stands in loco parents, and the student's anticipated expenses while attending a postsecondary educational institution. (7-1-93)

09. Expected Family Contribution. The sum of the amount which reasonably may be expected from the student and the student's spouse to meet the student's cost of education and the amount which reasonably may be expected to be made available to him by his parents for this purpose. (7-1-93)

10. Independent ~~Or Self-Supporting~~ Student. An individual who ~~declares that he has not, or will not, live with parents for more than six (6) weeks, be claimed as a dependent on any income tax return filed for purposes of federal or state of Idaho income taxes, or receive more than one thousand dollars (\$1,000) worth of support from parents for the year preceding application for financial aid or the year during which financial aid is sought, in accordance with the federal Title IV campus based program definition of a "self supporting" student meets the federal definition of independent student in Section 480(d) of the Higher Education Act (HEA), as amended.~~ (7-1-93)()

11. Dependent Student. A student who does not qualify as "independent ~~or self-supporting~~ student" as defined in Subsection 005.10 of this chapter. (7-1-93)()

12. Eligible Student. A student who is enrolled in an eligible postsecondary educational institution as defined in Subsection 005.01 of this chapter. (7-1-93)

13. Grant. An award by the Board to an eligible student for educational costs as defined in Subsection 005.02 of this chapter. (7-1-93)

14. Educational Year. The period from July 1 of a year through June 30 of the succeeding year. (7-1-93)

15. Board. The State Board of Education and the Board of Regents of the University of Idaho. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

100. OBJECTIVES AND PURPOSES OF THE STATE STUDENT INCENTIVE GRANT LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

01. Objectives. The State Board of Education and the Board of Regents of the University of Idaho recognizes and declares that postsecondary education for students who are properly qualified is important to the welfare of this state and nation and further recognizes and declares that the state can enhance its economic and social potential when students have the opportunity to contribute to the full extent of their capabilities through the removal of the financial barriers to their economic, social, and educational goals. (7-1-93)

02. Purposes. The purposes of this program are: (7-1-93)

a. To make grants to eligible students with substantial financial need to enable them to receive nonreligious educational services in an eligible postsecondary educational institution in this state; and (7-1-93)

b. To establish such administrative procedures as are necessary for the implementation of such a financial assistance program as established by the federal government under authority granted in Title IV, Part A, Subpart 34, of the Higher Education Act of 1965, as amended, and related acts. (7-1-93)(____)

101. ELIGIBILITY.

A ~~State Student Incentive~~ Leveraging Educational Assistance Partnership Program Grant may be awarded to an eligible student for attendance at an eligible postsecondary educational institution under the following circumstances: (7-1-93)(____)

01. Status. The student is a national of the United States; is in the United States for other than a temporary stay and intends to become a permanent resident thereof; is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands; or is an eligible noncitizen as declared by the U.S. Department of Education. (7-1-93)

02. Enrollment. The individual is accepted for enrollment as follows: (7-1-93)

a. In the case of an individual beginning his first year or freshman year of postsecondary education, he has satisfied requirements for admission and has enrolled in an eligible postsecondary educational institution as defined in Subsection 005.01 of this chapter. (7-1-93)

b. In the case of an individual enrolled in an eligible postsecondary educational institution following the successful completion of the first term, he continues to meet the requirements of the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program and maintains satisfactory progress as required by the institution in which he is enrolled. (7-1-93)(____)

03. Student Not In Default. The student must certify that he does not owe a refund on grants previously received at a postsecondary educational institution, is not in default on any loan from a student loan fund at a postsecondary educational institution, or is not in default on any loan made, insured, or guaranteed by the Secretary of the United States Department of Education under Title IV of the Higher Education Act of 1965, as amended. (7-1-93)(____)

04. Maximum Grant. Grant awards shall not exceed amounts established by the provisions of federal requirements for the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program. (7-1-93)(____)

05. Financial Need. The student has substantial financial need as defined in Subsection 005.08 of this chapter of at least one thousand dollars (\$1,000), determined annually in accordance with the criteria and standards for determining need promulgated by the Secretary of Education, U.S. Department of Education, under the Higher Education Act of 1965, as amended. Student financial aid directors may, on the basis of ~~adequate documentation for~~ audit purposes professional judgement, make necessary adjustments to the cost of attendance and expected family

contribution computations to allow for treatment of individual students with special circumstances. Student financial aid directors may use supplementary information about the financial status of eligible applicants in selecting recipients and determining the amount of awards. (3-19-93)(____)

06. Duration. The grant covers up to one (1) educational year or equivalent as defined in Subsection 005.14 of this chapter for attendance at an eligible postsecondary educational institution. (7-1-93)(____)

07. Statement. The individual receiving such a grant ~~signs a statement that the grant will be used the~~ funds solely for educational purposes as defined in Section 005.02 of this chapter. (7-1-93)(____)

08. Other Financial Assistance. The individual receiving such a grant is not precluded from receiving other financial aid, provided such other aid must be included as part of the student's financial aid award. (7-1-93)

09. Ineligible Programs. The individual is not pursuing courses leading to a theological or divinity degree. (7-1-93)

10. Program Compliance. The student has complied with all the provisions of the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program. (7-1-93)(____)

11. Payment Schedule. Grant payments to students should correspond to academic terms, semesters, quarters, or equivalent time periods at an institution of postsecondary education. In no instance, however, will the entire amount of a student's award for an academic term, or its equivalent, be paid in advance to or on behalf of such student. (7-1-93)

102. RESPONSIBILITIES OF INSTITUTIONS AND STUDENTS DISCONTINUING ATTENDANCE. If the student, after receiving payments, discontinues attendance before the end of any term covered by a ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program award, the eligible postsecondary educational institution ~~must remit, in accordance with the institutional financial and refund policy, any prorated tuition, fees, or room and board balances to the Board. The student must remit to the Board other reasonable grant balances on the basis of a schedule of payments as determined by the institution~~ may re-award the funds to another eligible student. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

104. NONDISCRIMINATION. The Board will discharge the authority granted it under the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program without regard to any student's race, creed, color, sex, national origin, ancestry, or age. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

106. ADMINISTRATION. The State Board of Education and the Board of Regents of the University of Idaho is the administrative agency for the administration of the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program. The Board designates the Office of the State Board of Education as the administrator for the program. The Board is responsible for: (7-1-93)(____)

01. Public Information. Supervision of the issuance of public information concerning the provisions of the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program. (7-1-93)(____)

02. Eligibility Criteria. Determination of criteria for the eligibility of grantees. (7-1-93)

- 03. Rules.** Adoption of rules for processing and approving applications from students. (7-1-93)
- 04. Appeal Procedure.** Establishment of a reasonable and fair appeal procedure for those students and institutions who have been adversely affected by the application procedures of the Board. (7-1-93)
- 05. Applications.** Submission of applications for federal student financial aid under the provisions of the Higher Education Act of 1965, as subsequently amended. (7-1-93)
- 06. Accounting Of Funds.** Receiving and accounting for all funds which may be available to the Office of the State Board of Education. (7-1-93)
- 07. Fiscal Controls.** Maintenance of such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of funds. (7-1-93)
- 08. Annual Reports.** Submission of annual reports to the federal government and the Office of the Governor and the Legislature of the state of Idaho. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

109. ALLOCATION OF FUNDS.

Funds appropriated to the Office of the State Board of Education for the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program shall be allocated to participating institutions based on enrollment data submitted by each institution on the Student Enrollment Form (PSR-1) for the fall semester immediately preceding the fiscal year of participation. The allocation shall be based on the number of full-time headcount students. The number of full-time headcount students for each institution divided by the number of full-time headcount students for all participating institutions shall determine the proportion of the appropriation for the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program to be allocated to each institution. (7-1-93)()

110. AUDIT.

Participating institutions shall agree in advance to submit to regular, periodic audits by the legislative auditor and the internal auditor of the Office of the State Board of Education to ensure compliance with the statutes, rules, and policies governing the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program, including provision of accurate enrollment information. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

113. AUTHORITY OF RULES.

All rules must comply with the provisions of the ~~State Student Incentive Grant~~ Leveraging Educational Assistance Partnership Program, Title IV, Part A, Subpart 34, of the Higher Education Act of 1965, as amended. If any section in the rules or any part of any section is declared invalid or unconstitutional, such declaration of invalidity does not affect the validity of the remaining portions thereof. (7-1-93)()

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with sections 67-5221(1) Idaho Code, notice is hereby given that this agency has initiated proposed regular rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

**October 13, 1999, from 6:30 – 8:00 p.m.
Joe R. Williams Building, West Conference Room
700 West State Street, Boise, Idaho.**

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Following approval of the Professional Standards Commission and permission from the State Board of Education to proceed with the Administrative Procedure Act, relevant certification changes are requested pertinent to the Administrator Certificate; the Early Childhood/Early Childhood Special Education Blended Certificate; the School Nurse endorsement; and the Family and Consumer Sciences endorsement.

FEE SUMMARY: No fees are attached to this proposal.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Professional Standards Commission establishes certification criteria in consultation with those having affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mike Stefanic, Certification Supervisor, at (208) 332-6880.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

Dr. Michael P. Stefanic,
Administrator/Professional Standards Commission
& Chief Certification Officer
Idaho State Department of Education
650 W. State Street
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6884
facsimile (208) 334-4664

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0202-9901

000. LEGAL AUTHORITY.

The action is authorized pursuant to Section 33-105, Idaho Code. Approved by Professional Standards Commission. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be known as IDAPA 08.02.02, "Rules Governing Uniformity". ()

02. Scope. Uniform standards and governance by the State Board of Education pertinent to Teacher Certification, School Facilities, School Release Time, Driver's Education and Juvenile Detention Centers. ()

002. --004. (RESERVED) WRITTEN INTERPRETATIONS.

Written interpretations to these rules in the form of the proposal to the State Board of Education for adoption of these rules are available from the State Department of Education at 650 W. State St., P.O. Box 83720, Boise, Idaho 83720-0027. ()

003. ADMINISTRATIVE APPEALS.

Appeals are by written application to the State Board of Education pursuant to IDAPA 08.02.01, "Rules Governing Administration," Section 001. ()

004. PUBLIC RECORDS AVAILABILITY.

Public records are available at the Idaho State Department of Education at 650 W. State St., P.O. Box 83720, Boise, Idaho 83720-0027. ()

0045. ~~CERTIFICATION STANDARDS ADOPTED~~ INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates into its rules:

01. Incorporated Document. The Idaho Department of Education Professional School Personnel Certification Standards Manual revised on ~~October 17, 1996~~ June 17, 1999. (4-1-97)()

02. Document Availability. The manual is available at the Idaho State Department of Education at 650 W. State St., P.O. Box 83720, Boise, Idaho 83720-0027. ()

(BREAK IN CONTINUITY OF SECTIONS)

070. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education will authorize the Office of Teacher Certification to issue the following certificates and endorsements on the Idaho Educator Credential to those individuals meeting the specific requirements for each area. The requirements for each certificate and endorsement are outlined in the Professional School Personnel Certification Standards Manual. (Section 33-1201, Idaho Code)

TEACHING CERTIFICATES
Standard Elementary, K-8
Standard Exceptional Child, K-12
Standard Secondary, 6-12
Occupational Specialist

ENDORSEMENTS, K-12
Art
Bilingual Education
English as a Second Language
Exceptional Child, Generalist
Exceptional Child, Hearing Impaired
Exceptional Child, Multiple Handicapped
Exceptional Child, Physically Handicapped
Exceptional Child, Seriously Emotionally Disturbed
Exceptional Child, Severe Retardation
Exceptional Child, Visually Impaired
Foreign Language
Gifted and Talented
Media Generalist
Music
Physical Education
Reading

ENDORSEMENTS <u>6-12</u>
Agriculture, Science and Technology
American Government
American Studies
Anthropology
Art
Art-Crafts
Basic Math
Bilingual Education
Biological Science
Business Education
Chemistry
Communication
Computer Applications
Consumer Economics

ENDORSEMENTS <u>6-12</u>
Drafting
Dramatics
Driver Education
Early Childhood Education Early Childhood/ Early Childhood --Special Education
<u>Blended Certificate (Birth-Grade 3)</u>
Earth Science
Economics
Electricity-Electronics
English
English as a Second Language (ESL)
Family and Consumer Sciences
Foreign Language
Geography
Health
History
Humanities
Journalism
Marketing Education
Music
Natural Science
Physical Education
Physical Education - Health
Philosophy
Physical Science
Physics
Political Science
Psychology
Reading
Social Studies
Sociology
Sociology-Anthropology
Speech
Speech-Drama
Standard Math

ENDORSEMENTS <u>6-12</u>
Technology Education
Work-Based Learning Coordinator

ADMINISTRATOR CERTIFICATE
Director of Special Education <u>and Related Services, Pre-K-12</u>
School Principal, <u>Pre-K-12</u>
Superintendent
Vocational Professional-Technical Administrator

PUPIL PERSONNEL CERTIFICATE
Counselor, K-12
Consulting Teacher
School Nurse
School Psychologist
School Social Worker
Speech Language Pathologist
Standard Audiology
Supervisor/Coordinator of Special Education

LIMITED CERTIFICATES
Consultant Specialist
Interim Occupational
Letter of Authorization
Limited Occupational Specialist
Limited Transitional
Postsecondary Specialist
Teacher Trainee

(7-1-99)()

01. Letters Of Authorization. Letters of authorization allow Idaho school districts to request

emergency certification when a professional position cannot be filled. A request for a Letter of Authorization for a teacher to serve in a position for which the teacher is not certificated will be sent to the State Department of Education, Certification Office. The request and supporting information will be reviewed by the Professional Standards Commission. The final recommendation of the Commission will be submitted to the State Board of Education by the Superintendent of Public Instruction. A detailed description of the procedure and policy for the above rule is found in the Teacher Certification Manual. (4-1-97)

02. Consultant Specialist. At the request of a school district, the State Department of Education may issue a consultant specialist certificate to highly and uniquely qualified persons. The use of the certificate is limited to the applicant's district and is valid for one (1) year. It is intended that use of the consultant specialist provision be exceptional and occasional and not used as a regular hiring practice. (4-1-97)

03. Certification Standards For ~~Vocational~~ Professional-Technical Educators. Teachers of ~~vocational~~ professional-technical classes or programs in secondary or postsecondary schools must hold an endorsement in an appropriate occupational discipline. This endorsement may be held on a secondary teaching credential or on an Occupational Specialist Certificate. Detailed description of the procedure and policy for the above rule is found in the Teacher Certification Manual. (~~4-1-97~~)(____)

04. Postsecondary Specialist. A post-secondary specialist certificate will be granted to teaching faculty of Idaho public post-secondary institutions, who are not otherwise certificated, upon recommendation by the post-secondary institution (dean level or above) to be eligible to teach in the public schools. The certificate will be issued by the State Department of Education. It is intended that the certificate be used primarily for distance education and "virtual university" programs. (4-1-97)

05. Grandfathering. All credentials issued prior to July 1, 1997 and kept current are authorized for continued use. Current renewal requirements of the State Board of Education must be met for renewal of the credential. If a credential is allowed to lapse, all current requirements for initial certification apply. (4-1-97)

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION

08.02.04 - RULES GOVERNING CHARTER SCHOOLS

DOCKET NO. 08-0204-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 1999.

AUTHORITY: In compliance with sections 67-5221 (1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105 and 33-5203, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in by writing twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing (s) site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking.

In House Bill 310, the Idaho legislature enacted amendments to Section 33-5203, Idaho Code, to provide that the date for calculating unused allotments of charter schools is June 1 of each year rather than October 1. The proposed rule makes the date for calculating unused allotments consistent with Section 33-5203, Idaho Code.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Donald C. Robertson, Deputy Attorney General at (208) 332-6812.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 23rd day of August, 1999.

Donald C. Robertson
Deputy Attorney General
Department of Education
650 W. State
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6812
facsimile (208) 334-2228

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0204-9901

012. UNASSIGNED ALLOTMENTS.

Within five (5) business days following ~~October~~ June 1 of each calendar year, any unused allotments as provided for in Section 33-5203(2), Idaho Code, shall be distributed among the other regions by random drawing.

~~(3-19-99)~~(7-1-99)T

01. Random Drawing. The random drawing shall be conducted in the Office of the State Board of Education during regular business hours on a regular business day not to exceed five (5) regular business days following ~~October~~ June 1.

~~(3-19-99)~~(7-1-99)T

02. Notice To Requesting Entities. The Office of the State Board of Education shall take reasonable efforts to notify all requesting districts whose petition is available for the random distribution of the date and time of the random drawing. Such notice may be by U.S. Mail, facsimile, electronic mail, or telephone.

(3-19-99)

03. Method Of Random Drawing. The random drawing shall be conducted via the following method. The petition number as assigned pursuant to Section 33-5206(5), Idaho Code, shall be placed upon a three inch by five inch (3" x 5") index card for each requesting district qualified for the random distribution. All three inch by five inch (3" x 5") cards shall be placed in a receptacle deemed sufficient by the Executive Director of the State Board of Education. The State Superintendent of Public Instruction or his or her designee, shall randomly draw one (1) three inch by five inch (3" x 5") index card for each unused allotment. Only the petitions drawn at such drawing shall be allowed as charter schools and no further drawings shall be made for that calendar year under any circumstance whatsoever.

(3-19-99)

04. Notification. The State Board of Education shall notify the charter school or schools selected via the random drawing and shall further notify all of the requesting petitioners not so selected.

(3-19-99)

05. No Carryover Of Petitions. Any petition that is not allowed as a charter school pursuant to Section 33-5203(2), Idaho Code, through either the one (1) per district or two (2) per region allotment or by the random drawing for any unused allotments, shall be returned to the petitioners and shall not carry over to the next year. Provided however, that nothing shall be construed as prohibiting the petitioners from submitting a similar or identical petition the following calendar year pursuant to these rules.

(3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.06 - RULES OF THE APPEALS BUREAU
DOCKET NO. 09-0106-9901

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is August 25, 1999. This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

IDAPA 09.01.06.090 is modified to clarify that if the last day of an appeal period falls on a Saturday, Sunday, or holiday, the appeal period will not expire until the next business day following the Saturday, Sunday or holiday. This amendment is consistent with the present practice of the Department and with the computation of statutory time periods contained in the Idaho Rules of Civil Procedure. The amendment ensures that appeal periods do not expire on days in which Department offices are closed.

The proposed rule has been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rule, and is being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have changed are printed in this bulletin. The original text of the temporary and proposed rule was published in the July 7, 1999, Idaho Administrative Bulletin, Volume 99-7, pages 82 through 87.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Craig G. Bledsoe at 208/334-6256.

DATED this 25th day of August, 1999.

Craig G. Bledsoe
Deputy Attorney General
Department of Labor
317 W. Main St.
Boise, ID 83735
208/334-6256 / Fax: 208/334-6125

IDAPA 09
TITLE 01
Chapter 06

RULES OF THE APPEALS BUREAU

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 82 through 87.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0106-9901

090. DISMISSAL IF FILING IS LATE.

Where it appears that any appeal (request for hearing) to the appeals examiner, or claim, or any other request or application, may not have been filed within the period of time prescribed for filing, the appellant, claimant, petitioner, or applicant (as the case may be) shall be notified and be given an opportunity to show that such appeal, claim for review, petition, or other request was timely. In computing any period of time prescribed or allowed by the ~~Idaho Code~~ Employment Security Law or the Claims for Wages Act, the day of the act, event, or default is not to be included. Saturdays, Sundays and holidays shall be counted during the period unless the last day of the period is a Saturday, Sunday, or legal holiday in which event the period shall not expire until the next business day following the Saturday, Sunday, or legal holiday. If it is found that such appeal, claim for review, petition or other request or application was not filed within the applicable time limit, it shall be dismissed on such grounds. If it is found that such appeal, claim for review, petition, or other request or application was timely, the matter shall be decided on the merits. Copies of a decision under this section shall be given or mailed to all interested parties, together with a clear statement of right of appeal or review. Ref. Sec. 72-1368 and Sec. 45-617, Idaho Code. ~~(7-1-99)~~(8-25-99)T

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-9901

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is August 25, 1999. This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Several minor changes have been made to IDAPA 09.01.30.425.10 regarding the employer's response to a Department request for separation information after a former employee has filed a claim for unemployment insurance benefits. The principal change is to the section that describes the method for providing the employer's response by telephone. The change gives employers more flexibility in choosing the manner in which to provide requested separation information to the Department.

The proposed rule has been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rule, and is being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have changed are printed in this bulletin. The original text of the temporary and proposed rule was published in the July 7, 1999, Idaho Administrative Bulletin, Volume 99-7, pages 88 through 92.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jean Hull at 208/334-6280.

DATED this 25th day of August, 1999.

Jean Hull
Unemployment Insurance Administrator
Department of Labor
317 W. Main St.
Boise, ID 83735
Fax: 208/334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-9901

425. NEW CLAIMS/ADDITIONAL CLAIMS.
Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims For Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of new claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. (3-19-99)

02. Effective Date -- New Claims. A new claim for benefits is effective on the Sunday of the week in which it is filed unless it is backdated due to local office scheduling problems or filed on an itinerant basis. (3-19-99)

03. Effective Date Of Mail Claims/Itinerant Claims. A claim for benefits filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If filed at a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. If a claimant has been granted permission to file his initial claim by mail, and he completes and returns the claim form within seven (7) days of the date the form was mailed to him from the local office, the effective date of the claim shall be the Sunday preceding the date of his original request to file the claim. If the claimant fails to mail the claim form within the seven (7) day period, and mail facilities would have permitted such mailing within the period, the effective date of the claim shall be the Sunday preceding the date he mails the claim form. Ref. Sec. 72-1308, Idaho Code. (3-19-99)

a. Taking new claims by mail. A claims examiner may allow a claimant to file an initial claim by mail when in-person filing would cause undue hardship. (3-19-99)

b. Interstate claimant mail claims. Any claim filed by mail by an interstate claimant shall be accepted in the same manner and under the same conditions for which mail claims are accepted from intrastate claimants. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration For Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants at either a local office or an itinerant point. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-19-99)

07. Requirement To Provide Information. Any individual wishing to claim benefits shall file a claim through the local office serving his area of residence and shall provide the local office with his legal name, his address where mail is delivered to him, his place of last employment, the employer's correct address, a list of all other employment in the past eighteen (18) months, his Social Security Number, the reason for separation from all applicable employers, and his plans for finding other employment at the earliest possible time. Failure to provide this information may result in ineligibility for benefits until the information is provided. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

08. Right To Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (3-19-99)

10. Separation Notice. (3-19-99)

a. Request for separation information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits ~~listing him as the claimant's last employer~~, shall submit to the Department a report of the reasons for the separation whenever such claimant: (3-19-99)(8-25-99)T

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)
- iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. The completed statement must be filed with the Department within ten (10) days from the date the request for separation information was mailed to the employer or by the extended due date, if any, granted by the Department. If the due date is a Saturday, Sunday, or holiday, the time for filing the employer's statement shall be extended to include the following working day. The employer's statement may be filed by one (1) of the following methods with the office listed on the request for separation information: (7-1-99)T(8-25-99)T

i. Personal delivery. The employer's statement may be personally delivered to the office by handing it to a Department employee at the office. The date of personal delivery shall be noted on the statement by the Department employee and shall be deemed the date of filing. The statement must be delivered to a Department employee by 5 p.m. on a business day to be deemed filed on that date. (3-19-99)

ii. Faxing or e-mailing. The employer's statement may be faxed or e-mailed to the office if sent to the fax number or e-mail address listed on the request for separation information. A faxed or e-mailed statement that is received by 5 p.m. (as of the time zone of the office receiving the fax or e-mail) on a business day shall be deemed filed on that date. A faxed or e-mailed statement that is received on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. (7-1-99)T

iii. Mailing. The employer's statement may be mailed to the office. A mailed statement shall be deemed filed on the date of mailing as determined by the postmark on the envelope containing the statement. Ref. Sec. 72-1337 and 72-1368, Idaho Code. (3-19-99)

iv. Telephone. The employer's statement may be provided to a ~~Department representative~~ the office by telephone if: (8-25-99)T

(1) The employer calls the office telephone number listed on the request for separation information between 8 a.m. and 5 p.m. (as of the time zone of the office receiving the call) on a business day and asks to provide the separation statement to a Department representative; or (8-25-99)T

(2) ~~the~~ A Department representative calls the employer to obtain the separation information. (8-25-99)T

v. The employer must provide the separation information to a Department representative on or before the employer's due date for providing the information, in order for the statement to be deemed timely filed.

~~(7-1-99)T~~(8-25-99)T

c. Date of mailing of request by the Department. The date indicated by the Department on the request for separation information as "Date of Mailing" shall be presumed to be the date the request was deposited in the United States mail, unless shown otherwise by a preponderance of competent evidence. (3-19-99)

d. Extending due date. To obtain an extension of the due date for the separation statement, an employer must contact the local office and request the extension by the date the separation statement is otherwise due. (3-19-99)

e. Appealing ruling of untimeliness. If, in the initial determination on the claim, it is determined that an employer has failed to file the completed separation statement within the time provided in this rule, the employer may assert that there was good cause for such failure or that the requested information was provided by the due date by filing an appeal of that determination in accordance with IDAPA 09.01.06, "Rules of the Appeals Bureau," Section 012, within fourteen (14) days of the date the determination was mailed. (3-19-99)

11. Taking An Additional Claim Or Reopening A Claim. A claim series may be reestablished, subsequent to the filing of a new claim, in person, by mail, or by telephone. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

a. Effective date of AC/RO. An additional or reopened claim shall be effective on the Sunday of the first week in which the claimant contacts a local office to reestablish the claim. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

i. AC/RO filing. If a claimant chooses to use a reopen/additional claim form rather than file by telephone, the form may be mailed or personally delivered to a local office. The claim must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. The postmark of a mailed reopen/additional claim form establishes the date of filing. (3-19-99)

ii. Backdated claim. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the reopen/additional claim is filed. (3-19-99)

b. Reestablished claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use Of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-9902
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed regular rulemaking procedures. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.30.010.14 would be modified to provide that a week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week. The current rule defines a week of full-time employment as one in which a claimant has worked his normal customary full-time hours. The rule needs to be clarified to ensure it is interpreted and applied consistently.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted for the following reason: the agency determined it was not feasible because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jean Hull at 208/334-6280.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 25th day of August, 1999.

Jean Hull
Unemployment Insurance Administrator
Department of Labor
317 W. Main Street
Boise, ID 83735
208/334-6280
Fax: 208/334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-9902

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor.
(3-19-99)

- 01. Additional Claim.** An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)
- 02. Administrative Office.** The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (3-19-99)
- 03. Appealed Claim.** An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)
- 04. Average Annual Wage.** For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-19-99)
- 05. Average Weekly Wage.** For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government employment) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the calendar year and then dividing the resulting figure by fifty-two (52). (3-19-99)
- 06. Benefit Balance.** The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)
- 07. Chargeability Determination.** A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)
- 08. Claim.** An application for unemployment insurance or "benefits". (3-19-99)
- 09. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)
- 10. Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)
- 11. Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)
- 12. Continued Claim.** An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)
- 13. Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned twelve (12) times his weekly benefit amount. (3-19-99)
- 14. Full-Time Employment.** A week of full-time employment for a claimant is one ~~(1)~~ in which he has worked his normal customary what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. ~~(3-19-99)~~(____)
- 15. Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)
- 16. Interstate Claim.** A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

- 17. Intrastate Claim.** A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)
- 18. Itinerant Point.** A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)
- 19. Liability Determination.** A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)
- 20. Local Office.** A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)
- 21. Mail Claim.** A claim filed by mail rather than in person at a local office. (3-19-99)
- 22. Monetary Determination.** A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)
- 23. New Claim.** The first initial claim made in a benefit year. (3-19-99)
- 24. Non-Monetary Determination.** A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)
- 25. Regular Claim.** A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)
- 26. Telephone Claim.** A claim filed by telephone rather than in person at a local office. (3-19-99)
- 27. Total Benefit Amount.** The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)
- 28. Unemployment.** An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)
- 29. Weekly Benefit Amount.** The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 061 of the Employer Accounts Bureau is amended to provide that a limited liability company which has elected to be treated as a partnership will not have to pay unemployment tax on any of the remuneration paid to its members. Also, Rule 061 is amended to provide that a limited liability company shall have the same tax status for purposes of Idaho's unemployment tax as it has for the Internal Revenue Service. For example, a limited liability company that has elected to be taxed by the IRS as a corporation will have the same status for purposes of determining whether it must pay unemployment tax to the state of Idaho.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The amendment to the Rule confers a benefit in that it allows a limited liability company to standardize its status at both the state and federal level, and the LLC will not have to pay unemployment tax on someone who is being treated for all other purposes like a partner.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted for the following reasons: the agency determined it was not feasible because of the need for temporary rule-making and because the change simplifies the tax treatment of limited liability companies by making both the state and federal levels consistent.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Whitworth, Chief, Employer Accounts Bureau, Idaho Department of Labor. Telephone (208) 334-6385.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 25th day of August, 1999.

Roger B. Madsen
Director
Idaho Department of Labor
317 W. Main Street
Boise, Idaho 83735
Telephone: (208) 334-6110
Fax: (208) 334-6430

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-9901

061. DEFINITIONS.

The definitions listed in IDAPA 09.01.35, "Rules of the Employer Accounts Bureau," Section 011, and the following are applicable to this Bureau. (3-19-99)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

02. Wages. The term "wages" includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (3-19-99)

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations, ~~limited liability companies~~, or other similar entities if paid in exchange for services; (~~3-19-99~~)(7-1-99)T

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (3-19-99)

c. Commissions for past services in covered employment; (3-19-99)

d. Remuneration paid to corporate officers, ~~members and managers of a limited liability company~~, which is paid in exchange for services performed or to be performed for or on behalf of the corporation, or ~~limited liability company~~; (~~3-19-99~~)(7-1-99)T

e. Salary advances against commissions; (3-19-99)

f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (3-19-99)

g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (3-19-99)

h. Vacation or "idle-time" pay, no matter when paid; (3-19-99)

i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (3-19-99)

j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

03. Exclusions From Wages. The term "wages" described in Section 72-1328, Idaho Code, does not include the following: (3-19-99)

a. Prizes or gifts for special occasions which are expressions of good will; (3-19-99)

b. Bonuses paid for signing a contract; (3-19-99)

c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (3-19-99)

d. Drawings or advances by partners ~~against the distribution of profits of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship;~~

~~(3-19-99)~~(7-1-99)T

- e. Rental charge for personal equipment provided by the employee on the job: if (3-19-99)
 - i. There is a rental agreement; and (3-19-99)
 - ii. The worker has received a reasonable wage for services performed; and (3-19-99)
 - iii. The fees are held separately on the employer's records. (3-19-99)
- f. Stock or membership interests issued for purposes other than services performed or to be performed; (3-19-99)
- g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (3-19-99)
 - i. To have paid or incurred reasonable job related expenses while performing services as employees; and (3-19-99)
 - ii To account adequately to the employer for these expenses; and (3-19-99)
 - iii. To return any excess reimbursement or allowance. (3-19-99)
- h. Payments for employee travel expenses, provided: (3-19-99)
 - i. Payments are job related expenses while performing services; and (3-19-99)
 - ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (3-19-99)
 - iii. Records for days of travel pertaining to per diem payments are verifiable. (3-19-99)
- i. Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes. (3-19-99)

04. Treatment Of Limited Liability Companies. For purposes of state unemployment tax coverage, a limited liability company will have the same status as it may have elected for federal tax purposes, or as that status may be determined or required by the federal government, subject to the provisions of Subsections 061.02 and 061.03. (7-1-99)T

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.06.01 - PHYSICAL EXAMINATION REQUIREMENTS AND PROCEDURES FOR PAID FIREMEN
DOCKET NO. 09-0601-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 11, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment of Firefighters Act was amended by the last session of the Idaho Legislature to give local jurisdictions control over the hiring of paid firefighters. As a result of this amendment, the Department's rules governing this process are being repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule is being repealed to comply with changes in the law giving local jurisdictions control over the hiring of paid firefighters.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is being repealed to comply with new legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Craig G. Bledsoe at 208/334-6256.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 25th day of August, 1999.

Craig G. Bledsoe
Deputy Attorney General
Department of Labor
317 W. Main Street
Boise, Idaho 83735
208/334-6256
Fax: 208/334-6125

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.06.02 - RULES GOVERNING MINIMUM MEDICAL AND HEALTH
STANDARDS FOR PAID FIREMEN

DOCKET NO. 09-0602-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 11, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment of Firefighters Act was amended by the last session of the Idaho Legislature to give local jurisdictions control over the hiring of paid firefighters. As a result of this amendment, the Department's rules governing this process are being repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is being repealed to comply with changes in the law giving local jurisdictions control over the hiring of paid firefighters.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is being repealed to comply with new legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Craig G. Bledsoe at 208/334-6256.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 25th day of August, 1999.

Craig G. Bledsoe
Deputy Attorney General
Department of Labor
317 W. Main Street
Boise, Idaho 83735
208/334-6256
Fax: 208/334-6125

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.06.03 - RULES GOVERNING MINIMUM MENTAL EXAMINATION
REQUIREMENTS FOR PAID FIREMEN

DOCKET NO. 09-0603-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 11, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment of Firefighters Act was amended by the last session of the Idaho Legislature to give local jurisdictions control over the hiring of paid firefighters. As a result of this amendment, the Department's rules governing this process are being repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is being repealed to comply with changes in the law giving local jurisdictions control over the hiring of paid firefighters.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is being repealed to comply with new legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Craig G. Bledsoe at 208/334-6256.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 25th day of August, 1999.

Craig G. Bledsoe
Deputy Attorney General
Department of Labor
317 W. Main Street
Boise, Idaho 83735
208/334-6256
Fax: 208/334-6125

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.06.04 - RULES GOVERNING MINIMUM PHYSICAL PERFORMANCE STANDARDS TEST
DOCKET NO. 09-0604-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective March 11, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Employment of Firefighters Act was amended by the last session of the Idaho Legislature to give local jurisdictions control over the hiring of paid firefighters. As a result of this amendment, the Department's rules governing this process are being repealed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is being repealed to comply with changes in the law giving local jurisdictions control over the hiring of paid firefighters.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is being repealed to comply with new legislation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Craig G. Bledsoe at 208/334-6256.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 25th day of August, 1999.

Craig G. Bledsoe
Deputy Attorney General
Department of Labor
317 W. Main Street
Boise, Idaho 83735
208/334-6256
Fax: 208/334-6125

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL
DOCKET NO. 11-1101-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective December 10, 1998 and March 11, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 004 updates the definitions of the terms used within the program and alphabetizes the definitions so they are easier to locate. Section 030, 032, 040, and 043 update the duties and procedures of the Council to reflect additions and changes within the program.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael N. Becar at (208) 884-7250.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

Michael N. Becar
Executive Director
Department of Law Enforcement
Peace Officer Standards and Training
700 South Stratford Drive
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7250 / (208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-9901

004. DEFINITIONS.

- ~~081.~~ **The Act.** Title 19, Chapter 51, of the Idaho Code. (7-1-93)(12-10-98)T
- 042.** **Department Agency.** A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. (7-1-93)(12-10-98)T
- 023.** **Department Agency Head.** A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. (7-1-93)(12-10-98)T
- ~~2204.~~ **College Credit.** A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other equivalent accrediting agency. (12-10-98)T
- 05.** **County Detention Officer.** An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (12-10-98)T
- ~~106.~~ **Field Training.** Training in which an individual receives formal instruction on the job for special and defined purposes. (12-10-98)T
- ~~1807.~~ **Full Time.** Employment of eighty (80) hours or more per month for ninety (90) consecutive calendar days. (12-10-98)T
- 078.** **High School.** A school accredited as a high school by the Department of Education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accreditation body, or a school accredited as a high school by the State University of the state in which the school is located. (12-10-98)T
- ~~09.~~ **Reimbursement.** ~~The money allocated to departments meeting the requirements of the Act.~~ (7-1-93)
- ~~1509.~~ **In-Service Training.** Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (12-10-98)T
- 2410.** **Law Enforcement Profession.** As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means a peace officer whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; or an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (12-10-98)T
- ~~11.~~ **Lateral Entry.** ~~employment of an officer at any rank by a department, based upon special qualifications without following the usual selection process established by the jurisdiction for lowest officer position.~~ (7-1-93)
- ~~171.~~ **The Manual.** This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (7-1-93)(12-10-98)T
- ~~12.~~ **Certificate.** ~~A document issued to peace officer training schools and individuals qualifying under the rules set by the Council.~~ (7-1-93)
- 192.** **Part Time.** Employment of less than eighty (80) hours per month for ninety (90) consecutive calendar days. (12-10-98)T

~~13. **Basis Recruit School Or Academy Or Basic Training Course.** The minimum basic peace officer training academy program of the Idaho Peace Officer Standards and Training Council. (7-1-93)~~

~~213. **Peace Officer.** Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (12-10-98)T~~

~~014. **POST.** The Idaho Peace Officer Standards and Training Program. (12-10-98)T~~

~~145. **Qualified Instructor.** Any person certified by the Idaho POST Council as being competent to teach in a Council approved school. (12-10-98)T~~

~~16. **Reserve Peace Officer.** An individual assigned by an agency to perform the duties of a peace officer who does not meet the definition of a full- or part-time peace officer. All reserve officers must be under supervision as set forth in these rules. (12-10-98)T~~

~~0617. **School.** Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (12-10-98)T~~

~~0518. **School Director or Coordinator.** An individual charged with the responsibility of conducting a training school under the provisions of the Act. (12-10-98)T~~

~~102. **Specification.** A description of a requirement supplementing a section of the Rules. (12-10-98)T~~

~~20. **Temporary.** Employment of less than ninety (90) consecutive calendar days. (12-10-98)T~~

~~21. **Normal Hearing.** Hearing which varies from zero to twenty five (0-25) decibels. Waivers to this may be considered by the POST Council. (7-1-93)~~

~~0321. **Trainee.** A peace officer participating in any POST approved training program. (12-10-98)T~~

~~005. -- 0101. (RESERVED).~~

~~011. **SEVERABILITY:**~~

~~Each Rule and every part of each Rule is independent and the holding of any Rule or any part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other Rule or part thereof, unless the remaining portion is rendered meaningless or ineffectual. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

030. GENERAL AND INCIDENTAL POWERS AND DUTIES.

Besides those enumerated previously (those in the Title 19, Chapter 51, Idaho Code), the duties of the Council shall be to do and perform all other acts and things required by law or which may be necessary to the full discharge of the duties of said Council, and shall include, but not be limited to the following: (7-1-93)(3-11-99)T

~~01. **Certification.** To issue certification to law enforcement officers when they meet the requirements as established by the POST Council in the Policies and Procedures Manual. (7-1-93)(3-11-99)T~~

~~02. **Files.** To receive and file for record copies of merit rules of local ordinances passed by local governmental agencies who thereby elect to participate in the training program and recruitment procedure. (7-1-93)~~

~~03. **Maintain.** To maintain files and transcripts on all certified peace officers, instructors, and schools; and furnish information from files upon request of the officer or employing law enforcement agencies in accordance with the Idaho Public Records Law. (7-1-93)(3-11-99)T~~

~~043. **Receive And Maintain Records.** To receive and maintain as trustees for the state of Idaho in accordance with the Department of Law Enforcement and POST retention schedules, all physical properties and records which shall come into the possession of the Council by virtue of its existence. (7-1-93)(3-11-99)T~~

~~054. **Establish Committees.** To establish such committees, both permanent and temporary, as may be necessary to more fully carry out the administrative duties of the Council. (7-1-93)(3-11-99)T~~

~~065. **To Elect.** To Pursuant to Idaho Code, the Council shall elect its officer consisting of a Vice-Chairman annually from among its membership. (7-1-93)(3-11-99)T~~

~~076. **Rules.** To adopt and amend rules and procedures consistent with law for its the internal management and procedure of POST and the operation of a law enforcement training program. (7-1-93)(3-11-99)T~~

~~087. **Assist.** Upon request, to assist departments and directors of training in administration and training problems encountered in complying with the various aspects of the Act as well as the ultimate objective of the Act, i.e., raising the level of competence of peace law enforcement officers in Idaho. (7-1-93)(3-11-99)T~~

~~098. **Study.** To make a continuous study of peace officer law enforcement training methods and consult with and accept the cooperation of any recognized local, state or federal law enforcement agency or educational institution to enable POST to provide current and updated training. (7-1-93)(3-11-99)T~~

~~109. **Consult And Cooperate.** To consult and cooperate with other departments and agencies of the state recognized law enforcement agencies or educational institutions concerned with peace officer law enforcement training. (7-1-93)(3-11-99)T~~

~~110. **Jurisdiction Recommendations.** To make recommendations concerning any matter within its jurisdiction concerning the Act. (7-1-93)(3-11-99)T~~

~~12. **Rules.** To adopt permanent rules and procedures for operation of a full time and part time peace officer training program. (3-20-97)~~

~~131. **Executive Director.** There shall be established in the Department of Law Enforcement a classified position of Executive Director of the Idaho Peace Officer Standards and Training Council. (3-20-97)(3-11-99)T~~

~~a. **An The** Executive Director will be employed by the Department of Law Enforcement to serve under the direction of the POST Council in carrying out the duties and responsibilities of the Council. (7-1-93)(3-11-99)T~~

~~b. The Executive Director shall have supervision over as many classified employees as the Council shall deem the employees and other persons necessary in carrying out its the functions of POST. (7-1-93)(3-11-99)T~~

~~c. For administrative purposes, the Executive Director and his/her staff will be governed by the Policies and Rules of the State of Idaho; and the Department of Law Enforcement, concerning but not limited to fiscal, purchasing, and personnel matters. (7-1-93)(3-11-99)T~~

~~d. The Executive Director shall be selected by the POST Council subject to approval of the Director of the Department of Law Enforcement from among the top five (5) applicants (or the approved certification) on the register established by the Idaho Personnel Commission Division of Human Resources after competitive testing. (7-1-93)(3-11-99)T~~

~~142. **Chairman Examining Board.** The Chairman of the POST Council will recommend one Chief or Sheriff who is a member of the POST Council to serve on the examining board set up by the Idaho Personnel~~

~~Commission~~ Division of Human Resources.

~~(7-1-93)~~(3-11-99)T

153. ~~Council Compensation.~~ Except for the Executive Director of the POST Council, the members of the Council receive no compensation from POST for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their functions, as prescribed by law. ~~(7-1-93)~~(3-11-99)T

164. Council Resignations And Replacements. ~~(7-1-93)~~

a. Any Council member who ceases to qualify as such, shall at once notify the Governor and Chairman in writing. ~~(7-1-93)~~

b. Any Council member who desires to terminate their services shall notify the Governor and Chairman in writing of their intentions. ~~(7-1-93)~~(3-11-99)T

175. ~~Rules Of Procedure In Contested Cases.~~ Rules of Procedure in contested cases shall be governed by the Idaho Administrative Procedures Act. (Title 67, Chapter 52 of the Idaho Code). ~~(7-1-93)~~(3-11-99)T

186. ~~Reasons For Granting Additional Time To Complete POST Training And Certification.~~ The Council, for good cause and in writing, may grant additional time to complete POST training and certification. Good cause may include, but is not limited to, ~~(7-1-93)~~

a. ~~S~~sickness or physical disability of officer or immediate family member, ~~(7-1-93)~~

b. ~~C~~cancellation of Basic Academy, ~~due to small number of applicants.~~ ~~(7-1-93)~~

e. ~~N~~natural disaster, ~~(7-1-93)~~

d. ~~or R~~reapplication to the Academy after failing or being unable to complete a previous Basic Academy Session. ~~(7-1-93)~~(3-11-99)T

e. ~~For cause and in writing pursuant to Section 19-5109(c), Idaho Code.~~ ~~(7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

041. THE RECORDS SYSTEM.

01. Training Record File. The Idaho Peace Officer Standards and Training Council will maintain a training ~~record~~ file on all Idaho ~~Peace law enforcement~~ officers. Officer certifications granted, and certified training schools attended by officers will be recorded in these ~~records~~ files. ~~A transcript of these training records may be used by the officer for any certification or employment needed.~~ ~~(7-1-93)~~(3-11-99)T

02. Notification Of Employment/Termination. It will be the responsibility of the law enforcement agency ~~department~~ head to notify the Council of all presently employed officers. The names of all officers hired after submission of the original list shall be submitted to the Council within thirty (30) days of employment. The ~~termination or resignation~~ of an officer's employment shall also be relayed to the Council within thirty (30) days of such action on an appropriate form designated by the Council. ~~(7-1-93)~~(3-11-99)T

03. Transcript Training Record. A ~~transcript~~ training record listing all certified courses an officer has completed, the hours credit, and other pertinent data will be kept along with the officer's records file. ~~A copy of this transcript will be available upon the officer's request and will be furnished to law enforcement units when applicants apply for appointment as a peace officer in any part of this or another state.~~ ~~(7-1-99)~~(3-11-99)T

04. Records. All records of officer certification — basic, part-time basic, intermediate, supervisory, advanced, master, management, or executive — will also be kept in this file and on the transcript. ~~(3-20-97)~~

054. File Other Law Enforcement Personnel. A file on ~~non-peace officer~~ other law enforcement personnel will ~~may~~ be maintained. This file will contain records for ~~non-sworn~~ other law enforcement persons who successfully complete ~~certain~~ POST-certified courses. (7-1-93)(3-11-99)T

065. Names Instructors. Names of certified instructors ~~certified or to be certified~~ will be kept in the files. They will be filed in the master files, a cross reference file and in a file by course topic maintained. (7-1-93)(3-11-99)T

076. List Instructors And Schools. A list of approved instructors and schools will be maintained ~~by the~~ Executive Director. (7-1-93)(3-11-99)T

042. PROCEDURE.

01. Application. Each individual officer may apply for certification when they ~~feel that they~~ have met the ~~training standards~~ requirements. When they are certified by the Council, this is entered into their file ~~and on~~ their transcript. (Refer to ~~Section 091 to Section 119~~ "Certification of Peace Officers".) (7-1-99)(3-11-99)T

02. Roster. School coordinators will furnish to the Council a "~~Police School Course~~ Attendance Roster" on the appropriate form designated by the Council upon the completion of each certified training school. ~~This information is then recorded on the officer's record and transcript and the class roster filed with the file on the school.~~ (Refer to ~~Section 151 to Section 156~~ "Formation and Certification of Schools".) (7-1-99)(3-11-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) Title 39, chapter 2 - Vital Statistics Act, Section 39-255, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Section 39-250, Idaho Code, states: "A certificate of any event shall be completed, corrected, amended or otherwise altered after being filed with the Vital Statistics unit only in accordance with this chapter and rules promulgated by the board." In addition, Section 39-250(a), Idaho Code, states: "The Department shall prescribe by rule the conditions under which additions or minor corrections may be made to certificates or records within one (1) year after the date of the event without the certificate being marked 'amended.' "IDAPA 16.02.08, Subsections 201.02.a. and 201.02.a.ii. state: (a.) Until the registrant's first birthday, given names or surname may be amended upon written notarized request of:" (ii.) The mother in the case of child born out of wedlock and the father's name is not shown on the certificate, in which case the surname of the natural father may not be used." Therefore, this rule does not allow unmarried mothers to use the father's surname as the child's surname in all circumstances, but will allow any other surname the mother chooses. A married mother is not limited in her choice of surnames for her child. We are deleting the restriction on the surname of a child born out of wedlock.

IDAPA 16.02.08, Subsections 201.04.a. and 201.04.a.ii. state: (a.) "Until the registrant's seventh (7th) birthday given names, for a child whose birth was recorded without given names, may be added to the certificate upon written notarized request of": (ii.) "The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate, in which case the surname of the natural father may not be used." Therefore, this rule does not allow unmarried mothers to use the father's surname as the child's surname in all circumstances, but will allow any other surname the mother chooses. A married mother is not limited in her choice of surnames for her child. We are deleting the restriction on the surname of a child born out of wedlock.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Jane S. Smith at (208) 334-5976.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 27, 1999.

DATED this 6th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
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(208) 334-5564 phone
(208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0208-9901

201. COMPLETION AND CORRECTION OF CERTIFICATES.

01. Correction Of Minor Errors On Certificates During The First Year. Except as otherwise provided in these rules, correction of obvious errors or transposition of letters in words of common knowledge, may be made by the State Registrar or an authorized agent within the first (1st) year after the date of the event either upon individual observation or query or upon request of any person with a direct and tangible interest as defined in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, Subsection 119.02, "Rules Governing The Protection and Disclosure of Department Records," or any person listed in Subsection 201.06.d. The method of correction shall be determined by the State Registrar, and shall not be subject to the requirements of Subsection 201.08. When such minor corrections are made by the State Registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change shall be made on the certificate in such a way as not to become a part of any certification issued. The certificate shall not be marked as amended.

(12-31-91)

02. Amendment Of Registrant's Given Names Or Surname On Birth Certificates Within The First Year.

(12-26-83)

a. Until the registrant's first birthday, given names or surname may be amended upon written notarized request of:

(11-20-87)

i. Both parents;

(12-26-83)

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate, ~~in which case the surname of the natural father may not be used;~~

(11-20-87)(____)

iii. The father in the case of the death or incapacity of the mother;

(12-26-83)

iv. The mother in the case of the death or incapacity of the father; or

(12-26-83)

v. The legal guardian or agency having legal custody of the registrant.

(12-26-83)

b. The certificate shall be marked as amended.

(12-26-83)

03. Amendment Of Registrant's Given Name On Birth Certificate After The First Year.

(12-26-83)

a. After one (1) year from the date of birth, the provisions of Subsection 201.06 must be followed to amend the given name if the name was entered in error at the time of the preparation of the birth certificate.

(12-31-91)

b. In all other cases, a legal change of name order from a court of competent jurisdiction must be submitted to change a given name after one (1) year.

(12-26-83)

04. Addition Of Given Names On Birth Certificates.

(12-26-83)

a. Until the registrant's seventh (7th) birthday, given names, for a child whose birth was recorded without given names, may be added to the certificate upon written notarized request of:

(12-26-83)

i. Both parents;

(12-26-83)

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate, ~~in which case the surname of the natural father may not be used;~~

(11-20-87)(____)

- iii. The father in the case of the death or incapacity of the mother; (12-26-83)
- iv. The mother in the case of the death or incapacity of the father; or (12-26-83)
- v. The legal guardian or agency having legal custody of the registrant. (12-26-83)
- b. The certificate shall be marked as amended. (12-26-83)
- c. After the registrant's seventh (7th) birthday, the provisions of Subsection 201.06 must be followed to add a given name. (12-31-91)
- 05. Acknowledgment Of Paternity.** (12-26-83)
 - a. Subject to the provisions of Subsection 201.05.b. below, a new certificate of birth shall be prepared by the State Registrar for a child born out of wedlock in this state upon receipt of an affidavit of paternity signed by both parents and a written request by both parents. The child's surname shall be changed on the certificate to that of the father if both parents so request. (12-26-83)
 - b. If another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption. (12-26-83)
 - c. The certificate shall not be marked as amended. (12-26-83)
- 06. All Other Amendments.** Unless otherwise provided in these rules or in Section 39-250, Idaho Code, all other amendments to vital records shall be supported by: (1-10-86)
 - a. An affidavit setting forth: (12-26-83)
 - i. Information to identify the certificate; (12-26-83)
 - ii. The incorrect data as it is listed on the certificate; (12-26-83)
 - iii. The correct data as it should appear. (12-26-83)
 - b. If one (1) year has elapsed since the date the event occurred, one (1) or more items of documentary evidence which support the alleged facts and which were established at least five (5) years prior to the date of application for amendment or within seven (7) years of the date of the event. (12-26-83)
 - c. Any item of a medical nature shall be amended only upon receipt of an affidavit from the person certifying such item, except that queries originating in the vital statistics office and subsequently completed and signed by the certifier may be used to complete or modify the reported cause of death. The State Registrar may require documentary evidence to substantiate the requested amendment. (9-1-84)
 - d. Applications to amend a specific vital record will be accepted as follows: (12-26-83)
 - i. An application to amend a birth certificate may only be made by one (1) or both of the parents, the legal guardian, the registrant if eighteen (18) years of age or older, or the individual responsible for filing the certificate. (12-26-83)
 - ii. An application to amend a death certificate may only be made by the informant, the next of kin, the funeral director or person acting as such who signed the death certificate, or the certifying physician or coroner. (12-26-83)
 - iii. An application to amend a stillbirth certificate may only be made by a person listed in Subsections 201.06.d.i. or 201.06.d.ii. above. (12-31-91)

iv. An application to amend a marriage or divorce certificate may only be made by the custodian of the official record from which the certificate was prepared, either of the parties to the marriage or divorce, or the individual responsible for filing the certificate. (12-26-83)

e. The State Registrar shall evaluate the evidence submitted in support of any amendment, or require additional documentation. The State Registrar's decision and determination shall be based upon serving the objectives of the vital statistics statutes and the best interests of the public. In the event the application is rejected or additional information is required, the State Registrar shall advise the applicant of the reason for the action and the right to appeal pursuant to Section 39-250(d), Idaho Code. (12-31-91)

07. Amendment Of The Same Item More Than Once. Once an item is amended on a vital record, that item shall not be amended again except upon receipt of a court order from an Idaho court of competent jurisdiction. (12-26-83)

08. Methods Of Amending Certificates. (12-26-83)

a. Certificates of birth, death, stillbirth, marriage, and divorce may only be amended by the State Registrar as follows: (12-26-83)

i. Preparing a new certificate showing the correct information when the State Registrar deems that the nature of the amendment so requires. The new certificate may be prepared on the form used for registering current events at the time of amendment. Except as provided elsewhere in these rules, the item number of the entry that was amended shall be identified on the new certificate. In every case, except as provided elsewhere in these rules or the Idaho Code, the new certificate shall show the date the amendment was made and be given the same state file number as the existing certificate. Signatures appearing on the existing certificate shall be typed on the new certificate. (12-26-83)

ii. Completing the item in any case where the item was left blank on the existing certificate. (12-26-83)

iii. Drawing a single line through the item to be amended and inserting the correct data immediately above or to the side. The line drawn through the original entry shall not obliterate such entry. (12-26-83)

iv. A certificate of birth amended pursuant to the provisions of Section 39-250(c), Idaho Code, shall be amended as prescribed in Subsection 201.08.a.iii. above. The fact that the name was changed pursuant to court order shall be stated on the certificate. (12-31-91)

b. Unless prohibited by statute or rule, there shall be inserted on the face of the certificate the date the amendment was made and the initials of the person making the change; the certificate shall be marked as amended. (12-26-83)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.01 - RULES GOVERNING ELIGIBILITY FOR MEDICAID FOR FAMILIES AND CHILDREN
DOCKET NO. 16-0301-9902
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective September 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l); 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Removes the requirement that Medicaid participants cooperate in obtaining cash child support.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the proposed rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 6th day of August, 1999.

Sherri Kovach
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DHW - Division of Legal Services
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(208) 334-5564 phone
(208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0301-9902

217. MEDICAL SUPPORT COOPERATION WITH CHILD SUPPORT.

The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish,

modify and enforce a ~~child medical~~ support order. The cooperation requirement may be waived if the participant has good cause for not cooperating or if the participant is an individual described in Section 1902(1)(1)(a) of the Social Security Act. These are poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support ~~and payments~~ from, or derived from, the father of the child born out of wedlock. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. ~~(7-1-99)~~(9-1-99)T

01. Cooperation Defined. Cooperation includes, but is not limited to, providing all information to identify and locate the noncustodial parent. Cooperation for Medicaid includes identifying other liable third party payers. The participant must provide the first and last name of the noncustodial parent. The participant must also provide at least two (2) pieces of information about the noncustodial parent, listed in Subsections 217.01.a. through 217.01.g. ~~(7-1-99)~~(9-1-99)T

- a. Birth ~~D~~date. ~~(7-1-99)~~(9-1-99)T
- b. Social Security Number. (7-1-99)
- c. Current address. (7-1-99)
- d. Current phone number. (7-1-99)
- e. Current employer. (7-1-99)
- f. Make, model, and license number of any motor vehicle owned by the noncustodial parent. (7-1-99)
- g. Names, phone numbers and addresses of the parents of the noncustodial parent. (7-1-99)

02. Good Cause Defined. The participant may claim good cause for failure to cooperate in securing medical ~~and child~~ support for ~~himself or~~ a minor child. Good cause is limited to the reasons listed in Subsections 217.02.a. through 217.02.c. ~~(7-1-99)~~(9-1-99)T

- a. There is proof the child was conceived as a result of incest or rape. (7-1-99)
- b. There is proof the child's noncustodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent or the caretaker relative. (7-1-99)
- c. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the noncustodial parent. (7-1-99)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Changes the gross and net income limits, the maximum monthly allotments.

Restarts the Able Bodied Adults Without Dependent Children (ABAWD) eligibility counter beginning December 1, 1999 and ending November 30, 2002.

Deletes Work Opportunity site participation as a method for ABAWDs to regain Food Stamp eligibility.

Changes the one-time TAFI diversion payment from countable income to a resource.

Adds a new armed services housing allowance as earned income.

Adds tribal gaming income as a recurring lump sum.

Changes aggregate allotments to be allowed for expedite eligible households only.

Add guardianship payments to be counted the same as foster care payments.

Deletes sexual orientation or marital or family status from the discrimination criteria.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5818.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 16th day of August, 1999.

Sherri Kovach
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(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-9901

228. EXEMPTIONS DEFERRALS FROM JSAP FOR HOUSEHOLD MEMBERS PARTICIPATING IN TAFI.

Exemptions Deferrals from JSAP for household members participating in the TAFI program are listed in Subsections 228.01 through 228.03. ~~(7-1-99)~~(10-1-99)T

01. Reasonable Distance. Appropriate child care is not available within a reasonable distance from the participant's home or work site. (7-1-99)

02. Relative Child Care. Informal child care by relatives or others is not available or is unsuitable. (7-1-99)

03. Child Care Not Available. Appropriate and affordable child care is not available. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

235. FAILURE TO COMPLY.

Failure to comply includes failure, without good cause, to sign a JSAP agreement, to meet participation requirements, to conduct a job search, or participate in ~~w~~Workfare Opportunities or skills training for the required number of hours. ~~(7-1-99)~~(10-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

254. ABAWD WORK REQUIREMENT.

To participate in the Food Stamp program, persons must meet one (1) of the conditions in Subsections 254.01 through 254.03. Persons not meeting one (1) of the conditions in Section 254 may not participate in the Food Stamp program as a member of any household for more than three (3) full months (consecutive or otherwise) in the thirty-six (36) month period beginning December 1, 1996~~2~~ and ending November 30, ~~1999~~2002. ~~(7-1-99)~~(10-1-99)T

01. Work For Twenty Hours Or More Per Week. The person must work for twenty (20) hours or more per week, averaged monthly. The person must be paid money for the work. (7-1-99)

02. Participate In JSAP Or Another Work Program. The person must participate in and comply with the requirements of the JSAP program (other than job search or job readiness activities), the JTPA program, a program under Section 236 of the Trade Act of 1974, or another work program recognized by the Department. The person must participate for twenty (20) hours or more per week. (7-1-99)

03. Participate In Work Opportunities. The person must participate in and comply with the requirements of a Work Opportunities program. (7-1-99)

255. REGAINING ELIGIBILITY.

Persons whose three (3) month eligibility has expired may regain eligibility for Food Stamps. During a calendar month the person must meet one (1) of the work requirements in Subsections 255.01 through 255.04~~3~~. After the person regains eligibility, they must continue meeting the work requirement to get Food Stamps. ~~(7-1-98)~~(10-1-99)T

01. Work Eighty Hours. The person must work eighty (80) or more hours. (7-1-99)

02. Participate In JSAP. The person must participate in and comply with the requirements of the JSAP program (other than job search or job search training), the JTPA program or a program under section 236 of the Trade Act of 1974 for eighty (80) or more hours. (7-1-99)

~~**03. Participate In Work Opportunities.** The person must participate in and comply with the requirements of a Work Opportunities program. (7-1-99)~~

04. Three Additional Months Food Stamps After Regaining Eligibility. A person who met the work requirement but lost a job through no fault of their own may get Food Stamps for three (3) consecutive months. For applicants, the three (3) consecutive months begins the first full month of benefits. For participants, the three (3) consecutive months begins the month following the month the person no longer meets the work requirement. A person is eligible for the additional three (3) consecutive months only once in a thirty-six (36) month period. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

323. LUMP SUM RESOURCES.

Nonrecurring lump sum payments are counted as a resource in the month received, unless excluded under these rules. The household must report the lump sum payment to the Department within ten (10) days of getting the payment. If the lump sum along with other resources exceeds the resource limit, the household is not eligible for Food Stamps. If resources exceed the limit, the Department will end Food Stamps after timely notice. The household may spend resources down under the limit in the month the lump sum was received. If the resource is spent below the limit, the household continues to be eligible for Food Stamps. The household must still report receipt of the lump sum payment within ten (10) days. Some lump sum payments are listed below: (6-1-94)

01. Retroactive Payments. Retroactive payments from: (6-1-94)

a. Social Security. (6-1-94)

b. SSI. (6-1-94)

c. Public Assistance. (6-1-94)

d. Railroad Retirement benefits. (6-1-94)

e. Unemployment Compensation benefits. (6-1-94)

02. Insurance. Insurance settlements. (6-1-94)

03. Refunds. Income tax refunds, rebates, or credits. (6-1-94)

04. Earned Income Tax Credit (EITC). Single earned income tax credit payments received at the end of the tax year. (6-1-94)

05. Child Support. Child support pass-through payments to cover previous months. (6-1-94)

06. Property Payments. Lump sum payment from sale of property. Contract payments from the sale of

- property are counted as income. (6-1-94)
- 07. Security Deposits.** Refunds of security deposits on rental property or utilities. (6-1-94)
- 08. Disability Pension.** Annual adjustment payments in VA disability pensions. (6-1-94)
- 09. Vacation Pay.** Vacation pay, withdrawn in one lump sum by a terminated employee. (6-1-94)
- 10. Military Bonus.** Military re-enlistment bonuses. (6-1-94)
- 11. Readjustment Pay.** Job Corps readjustment pay. (6-1-94)
- 12. Severance Pay.** Severance pay, paid in one (1) lump sum to a former employee. (6-1-94)
- 13. TAFI One-Time Cash Payment.** The one-time TAFI cash diversion payment. (10-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

401. EARNED INCOME.

Earned income includes, but is not limited to, income listed below (6-1-94)

01. Wages Or Salary. Wages and salaries of an employee, advances, tips, commissions, meals, and military pay are earned income. Garnishments from wages are earned income. (6-1-94)

02. Self-Employment Income. Income from self-employment, including capital gains, is earned income. Rental property is a self-employment enterprise. The income is earned if a household member manages the property an average of twenty (20) or more hours per week. Payment from a roomer or boarder is self-employment income. (6-1-94)

03. Training Allowances. Training allowances from programs such as Work Study, and Vocational Rehabilitation are earned income. (7-1-99)

04. Payments Under Title I. Payments under Title I, such as VISTA and University Year for Action under P.L. 93-113 are earned income. (6-1-94)

05. On-The-Job Training Programs. JTPA income includes monies paid by JTPA or the employer. Income from JTPA on-the-job training programs is earned income, unless paid to a household member under age nineteen (19). The household member under age nineteen (19) must be under the control of another household member. (6-1-94)

06. Basic Allowance For Housing (BAH). BAH is an Armed Services housing allowance. BAH is counted as earned income. (10-1-99)T

402. UNEARNED INCOME.

Unearned income includes, but is not limited to income listed below: (6-1-94)

01. Public Assistance (PA). Payments from SSI, TAFI, AABD, GA, or other Public Assistance programs are unearned income. (7-1-98)

02. Retirement Income. Payments from annuities, pensions, and retirement are unearned income. Old age, survivors, or Social Security benefits are unearned income. (6-1-94)

03. Strike Benefits. Strike benefits are unearned income. (6-1-94)

04. **Veteran's Benefits.** Veteran's benefits are unearned income. (6-1-94)
05. **Disability Income.** Disability benefits are unearned income. (6-1-94)
06. **Workers' Compensation.** Workers' Compensation is unearned income. (6-1-94)
07. **Unemployment Insurance.** Unemployment Insurance is unearned income. (6-1-94)
08. **Contributions.** Contributions are unearned income (6-1-94)
09. **Rental Property Income.** Rental property income, minus the cost of doing business, is unearned income if a household member is not managing the property at least twenty (20) hours per week. (6-1-94)
10. **Support Payments.** Support payments, including child support payments, are unearned income. (6-1-94)
11. **Alimony.** Alimony payments are unearned income. (6-1-94)
12. **Education Benefits.** Educational scholarships, grants, fellowships, deferred payment loans, and veteran's educational benefits exceeding excluded amounts are unearned income. (6-1-94)
13. **Government Sponsored Program Payments.** Payments from government sponsored programs are unearned income. (6-1-94)
14. **Dividends, Interest, And Royalties.** Dividends, interest, and royalties are unearned income. (6-1-94)
15. **Contract Income.** Contract income from the sale of property is counted as unearned income. (6-1-94)
16. **Funds From Trusts.** Monies withdrawn from trusts exempt as a resource are unearned income. Dividends paid or dividends that could be paid from trusts exempt as a resource are unearned income. (7-1-97)
17. **Recurring Lump Sum Payments.** Recurring lump sum payments are unearned income. (7-1-98)
18. **Prizes.** Cash prizes, gifts and lottery winnings are unearned income. (6-1-94)
19. **Diverted Support Or Alimony.** Child support or alimony payments, diverted by the provider to a third party, to pay a household expense are unearned income. (6-1-94)
20. **HUD Payments For Utilities.** Housing and Urban Development (HUD) payments for utility costs, made directly to the household or jointly to the household and utility company, are unearned income. (6-1-94)
21. **Agent Orange Payments.** Payments made under the Agent Orange Act of 1991 and disbursed by the U.S. Treasury are unearned income. (6-1-94)
22. **Garnishments.** Garnishments from unearned income are unearned income. (6-1-94)
23. **Tribal Gaming Income.** Tribal gaming income is unearned income. The participant can choose to count the income in the month received, or prorate the income over a twelve (12) month period. (10-1-99)T
234. **Other Monetary Benefits.** Any monetary benefit, not otherwise counted or excluded, is unearned income. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

532. GROSS INCOME LIMIT.

Households exceeding the gross income limit for the household size are not eligible, unless they are categorically eligible or have an elderly or disabled member. Categorically eligible households are exempt from gross and net income limits. All members of categorically eligible households must be approved for TAFI, AABD, or SSI. Households with elderly or disabled household members are exempt from the gross income limit. Gross income limits are listed in Table 532.

TABLE 532 - GROSS INCOME LIMIT	
HOUSEHOLD SIZE	GROSS INCOME LIMIT
1	\$8723
2	\$1,17699
3	\$1,479504
4	\$1,783810
5	\$2,086115
6	\$2,389421
7	\$2,693726
8	\$2,9963,032
Each Added Person	Add \$3046

(10-1-98)T(10-1-99)T

533. INCOME DEDUCTIONS.

A household is entitled to a deduction when it gets a bill or, if there is no bill, when the payment is due. Only the deductions listed below must be taken from household's gross income: (6-1-94)

01. Standard Deduction. The standard deduction is ~~one hundred thirty four dollars (\$134) per month per household~~ the monthly amount specified in Title 7 United States Code Section 2014. (7-1-97)(10-1-99)T

02. Earned Income Deduction. The earned income deduction is twenty percent (20%) of gross earned income. (6-1-94)

03. Excess Medical Deduction. The excess medical deduction is nonreimbursed medical expenses more than thirty-five dollars (\$35) per household per month. The household member must be either age sixty (60) or older or disabled to get this deduction. Special diets are not deductible. (6-1-94)

04. Dependent Care Deduction. The dependent care deduction each month is dependent care expenses up to a maximum of two hundred dollars (\$200) per dependent child under age two (2) and one hundred seventy-five dollars (\$175) for any other dependent. The care must be needed for a household member to accept, continue, or seek employment, or attend school or training for employment. (9-1-94)

05. Child Support Deduction. The child support deduction is the legally obligated child support amount the household pays, or expects to pay, on behalf of a non-household member. (7-1-97)

06. Shelter Costs. The monthly shelter cost, over fifty percent (50%) of the household's income after all other deductions, is the excess shelter cost. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

543. STANDARD UTILITY ALLOWANCE (SUA).

The shelter deduction is computed using the SUA or actual utility costs. The SUA is described below: (6-1-94)

01. Standard Utility Allowance (SUA). The Standard Utility Allowance (SUA) can be used instead of actual costs of heating, cooling, cooking fuel, electricity, the basic service fee for one (1) telephone, water, sewer and garbage collection. The SUA is one hundred seventy-one ~~six~~ dollars (\$1746). The household must be told if actual utility costs exceed the SUA, the actual costs can be used if the household proves these costs. ~~(10-1-98)T~~(10-1-99)T

02. SUA Qualifications. To qualify for the SUA, households must: (6-1-94)

a. Receive energy assistance payments made under the Low Income Home Energy Assistance Act of 1981; or (6-1-94)

b. The household must have a primary heating or cooling system. The household must have out-of-pocket heating or cooling costs billed on a regular or irregular basis. The heating or cooling costs must be separate from rent or mortgage payments. If not billed regularly for heating or cooling costs, the household must be otherwise Food Stamp eligible between billing periods. (6-1-94)

c. If the household claims cooling costs, the household must have either an air conditioning system or a room air conditioner to qualify for the SUA. (6-1-94)

d. If the household claims heating costs, the household must have expenses for a primary source of heat. Households buying wood for their primary source of heat may get the SUA. Cutting their own wood for the primary source of heat does not qualify a household for the SUA. Supplemental heat sources like, space heaters, electric blankets, cook stoves and a secondary heat source like a fireplace do not qualify households for the SUA. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

548. COMPUTING THE SHELTER DEDUCTION.

The shelter deduction is computed as listed below: (6-1-94)

01. Household With Elderly Or Disabled Member. If the household has an elderly or disabled member, deduct the monthly shelter cost exceeding fifty percent (50%) of the household's income after all other deductions. (6-1-94)

02. Household With No Elderly Or Disabled Member. If the household does not have an elderly or disabled member, deduct the excess of fifty percent (50%) of the household's income, after all other deductions, up to the maximum ~~two hundred seventy-five dollar (\$275)~~ limit as specified in Title 7 United States Code Section 2014. ~~(10-1-98)T~~(10-1-99)T

549. NET INCOME LIMIT TEST.

Categorically eligible households do not have a net income limit. ~~Households with an elderly or disabled household member must meet the net income limit.~~ For all other households, including those with an elderly or disabled household member, compare the net income to the net income eligibility limit for that size household. This comparison must be completed for initial eligibility and when income changes. When the household income changes to a different income eligibility limit, apply the different limit. If the net income of the household exceeds the net income limit the household is not eligible for Food Stamps, unless categorically eligible. Net income limits are listed in Table 549.

TABLE 549 - NET INCOME LIMITS	
HOUSEHOLD SIZE	NET INCOME LIMIT
1	\$ 671 <u>87</u>
2	\$ 905 <u>22</u>
3	\$1, 138 <u>57</u>
4	\$1, 371 <u>92</u>
5	\$1, 605 <u>27</u>
6	\$1, 838 <u>62</u>
7	\$2, 071 <u>97</u>
8	\$2, 305 <u>32</u>
Each Added Person Add \$234 <u>5</u>	

(~~10-1-98~~)T(10-1-99)T

550. STEPS TO COMPUTE FOOD STAMP PAYMENT.

Use the steps in Subsections 550.01 through 550.38 to compute the Food Stamp issuance. Do not round figures or calculations of income and deductions in determining gross or net income. (7-1-97)

01. **Step 1.** List projected wages and salaries for the household for the month. Do not count excluded income. (6-1-94)
02. **Step 2.** Compute and list net self-employment income. If a farmer, list any self-employment profit or loss. (6-1-94)
03. **Step 3.** Add results of Step 1 and Step 2. THIS IS GROSS EARNED INCOME. (6-1-94)
04. **Step 4.** Compute and list prorated monthly non-excluded educational income. (6-1-94)
05. **Step 5.** Compute and list prorated monthly tuition, mandatory fees, and allowed expenses. (6-1-94)
06. **Step 6.** Subtract amount in Step 5 from the amount in Step 4. (6-1-94)
07. **Step 7.** List other unearned income for household. (6-1-94)
08. **Step 8.** Add results of Step 6 and Step 7. THIS IS TOTAL UNEARNED INCOME. (6-1-94)
09. **Step 9.** Add results of Step 3 and Step 8. (6-1-94)
10. **Step 10.** Subtract any loss not used up in Step 2 from Step 9. THIS IS GROSS MONTHLY INCOME. Record the gross monthly income. Check to see if gross income exceeds the limit for family size. Categorically eligible households are exempt from the gross income test. Households with an elderly or disabled household member are exempt from the gross income test. (6-1-94)
11. **Step 11.** Multiply amount in Step 3 times twenty percent (20%). (6-1-94)
12. **Step 12.** Subtract amount in Step 11 from amount in Step 3. (6-1-94)

13. **Step 13.** Add amount in Step 12 to amount in Step 8. (6-1-94)
14. **Step 14.** List the standard deduction of ~~one hundred thirty-four dollars (\$134).~~ (7-1-97)(10-1-99)T
15. **Step 15.** Subtract amount in Step 14 from amount in Step 13. (6-1-94)
16. **Step 16.** List converted medical costs over thirty-five dollars (\$35) for household with elderly or disabled member. (6-1-94)
17. **Step 17.** Subtract amount in Step 16 from amount in Step 15. (6-1-94)
18. **Step 18.** List converted dependent care costs (not to exceed two hundred dollars (\$200) per dependent under age two (2) and one hundred seventy five dollars (\$175) for any other dependent). (10-1-94)
19. **Step 19.** Subtract amount in Step 18 from amount in Step 17. (7-1-97)
20. **Step 20.** List child support paid or expected to be paid by the household. (7-1-97)
21. **Step 21.** Subtract amount in Step 20 from amount in Step 19. THIS IS INCOME, AFTER DEDUCTIONS, EXCEPT SHELTER DEDUCTION. (7-1-97)
22. **Step 22.** Divide amount in Step 21 by two (2) (this is used to weigh shelter costs). THIS IS HALF THE ADJUSTED INCOME. (7-1-97)
23. **Step 23.** List rent or mortgage payment. (7-1-97)
24. **Step 24.** List property taxes (averaged over twelve (12) months). (7-1-97)
25. **Step 25.** List homeowners insurance on structure (averaged over twelve (12) months). (7-1-97)
26. **Step 26.** Add amount in Step 23 and amount in Step 24 and amount in Step 25. (7-1-97)
27. **Step 27.** If client chooses the standard utility allowance (SUA), add ~~one hundred seventy-one dollars (\$171)~~ the SUA to the amount in Step 246. (4-1-98)T(10-1-99)T
28. **Step 28.** If client has chosen to use actual utility expenses, list and add the following expenses. (7-1-97)
- a. Basic rate for telephone. (6-1-94)
 - b. Electric bill. (6-1-94)
 - c. Gas bill. (6-1-94)
 - d. Heating oil. (6-1-94)
 - e. Wood costs (only if purchased for heat). (6-1-94)
 - f. Water and sewer bill. (6-1-94)
 - g. Garbage and trash collection. (6-1-94)
 - h. Installation costs for utilities. (6-1-94)
 - i. Other allowed utility costs. (6-1-94)
29. **Step 29.** If client has chosen to use actual utility expenses, add amount in Step 26 and amount in

Step 28. (7-1-97)

30. Step 30. Use amount from Step 27 (using standard utility allowance) or amount from Step 29 (using actual utility costs) as total shelter cost. (7-1-97)

31. Step 31. Subtract half adjusted income (Step 22) from amount in Step 30. ~~THIS IS THE EXCESS SHELTER DEDUCTION. The maximum excess shelter deduction for household with no elderly or disabled member is two hundred seventy five dollars (\$275).~~ If any member of the household is age sixty (60) or disabled, use the maximum is the full excess shelter allowance. For all other households use the excess shelter deduction up to the maximum specified in Title 7 Uited States Code Section 2014. (10-1-98)~~(10-1-99)T~~

32. Step 32. Subtract amount in Step 31 from amount in Step 21. THIS IS THE NET INCOME. (7-1-97)

33. Step 33. List maximum net income limit based on household size. (7-1-97)

34. Step 34. If amount in Step 32 is less than or equal to amount in Step 33, or if all household members are categorically eligible, compute the Food Stamp amount. If the amount in Step 32 is greater than the amount in Step 33, net income exceeds allowed limits. (7-1-97)

35. Step 35. List maximum Food Stamp amount for number of eligible household members. (7-1-97)

36. Step 36. Multiply amount in Step 32 times three-tenths (0.3) (thirty percent (30%)). (7-1-97)

37. Step 37. Subtract amount in Step 36 from the amount in Step 35. (7-1-97)

38. Step 38. Round the amount in Step 37 to the next lower dollar. THIS IS THE FOOD STAMP ISSUANCE AMOUNT. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

~~**566. AGGREGATE ALLOTMENTS.**~~

~~Food Stamps are issued for more than one (1) full month if households meet the criteria below. (6-1-94)~~

~~**01. General Household.** Households, other than migrant or seasonal farmworker households, applying after the fifteenth day of the month must be issued combined Food Stamps for the application month and the next month. (6-1-94)~~

~~**02. Migrant Or Seasonal Farmworker Households.** Migrant or seasonal farmworker households applying after the fifteenth (15th) of the month, certified for more than thirty (30) days, must be issued combined Food Stamps for the application month and the next month. Migrant or seasonal farmworker households, previously certified less than thirty (30) days before the new application date, do not get prorated benefits. These households get the full monthly allotment of Food Stamps. (6-1-94)~~

~~**567. -- 573. (RESERVED).**~~

(BREAK IN CONTINUITY OF SECTIONS)

581. MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE.

The maximum Food Stamp amount by household size is listed in Table 581.

TABLE 581 - MAXIMUM FOOD STAMPS BY HOUSEHOLD SIZE	
HOUSEHOLD SIZE	MAXIMUM FOOD STAMPS
1	\$1257
2	\$2304
3	\$32935
4	\$44926
5	\$497506
6	\$597607
7	\$65971
8	\$75467
Each Added Person	Add \$946

(10-1-98)F(10-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

751. BOARDERS.

Boarders are persons, or groups of persons, living with others. Boarders pay for meals and lodging. Boarders must pay an amount equal to or greater than the thrifty food plan for meals. Rules for Food Stamp boarders are listed below: (6-1-94)

01. Boarder Status. (6-1-94)

a. Boarder status must not be given to parents and children. (6-1-94)

b. Boarder status must not be given to spouses living together. (6-1-94)

c. Boarders are not eligible for Food Stamps as a separate household. (6-1-94)

02. Boarder Included With Food Stamp Household. Boarders may be included in the Food Stamp household providing board. The Food Stamp household must request the boarder be included. The household must be otherwise eligible. (6-1-94)

03. Foster Children. Foster children are boarders. Foster care payments and guardianship payments are not income for Food Stamps if the foster child does not get Food Stamps as part of the household. If the household requests the foster child be included in the Food Stamp household, ~~the~~ foster care payments and guardianship payments are counted. (6-1-94)(10-1-99)T

04. Foster Adults. Foster adults are boarders. Foster care payments are not income for Food Stamps if the foster adult does not get Food Stamps as part of the household. If the household requests the foster adult be included in the Food Stamp household, the foster care payments are counted. (6-1-94)

05. Meal Compensation. Boarder status must be given to persons paying a reasonable monthly

amount for meals. (6-1-94)

a. Payments for more than two (2) meals a day must equal or exceed the thrifty food plan for the boarder household size. (6-1-94)

b. Payments for two (2) meals or less per day must equal or exceed two-thirds (2/3) of the thrifty food plan for the boarder household size. (6-1-94)

06. Nonboarder Status. A person paying less than a reasonable amount for meals is a member of the household providing board. (10-1-94)

07. Income From Boarders. If the boarder is not a Food Stamp household member: (6-1-94)

a. The meals and lodging payment is self-employment income for the Food Stamp household. (6-1-94)

b. The boarder's income and resources are not counted for the Food Stamp household. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

850. FOOD STAMP RIGHTS.

The Food Stamp household has rights protected by Federal and State laws and Department rules. The Department must inform clients of their rights during the application process and eligibility reviews. Food Stamp rights are listed below: (6-1-94)

01. Application. The right to get an application on the date requested. (6-1-94)

02. Application Registered. The right to have the signed application accepted right away. (6-1-94)

03. Representative. The right to have an authorized representative if the applicant cannot get to the Food Stamp office. The authorized representative must have knowledge of the applicant's situation. (6-1-94)

04. Home Visit Or Telephone Interview. The right to have a home visit or telephone interview. The applicant must be: (6-1-94)

a. Age sixty (60) or older; or (6-1-94)

b. Disabled and unable to come to the Food Stamp office. (6-1-94)

c. The Department may also allow a home visit or telephone interview because of transportation difficulties or other hardships. (6-1-94)

05. Thirty Day Processing. The right to have the application processed and Food Stamps issued within thirty (30) days. (6-1-94)

06. Expedited Service. The right to get Food Stamps within five (5) days if eligible for expedited service. (6-1-94)

07. Fair And Equal Treatment. The right to fair and equal treatment, regardless of age, gender, race, color, handicap, religious creed, national origin, political belief, ~~sexual orientation, or marital or family status.~~ (10-1-98)T(10-1-99)T

08. Case Record And Food Stamp Rules Available. The right to look at the client's case file. The right to look at a copy of the Food Stamp program rules. (6-1-94)

- 09. Notification.** The right to be told in writing of: (6-1-94)
- a. The reasons for the Department's action if the application is rejected. (6-1-94)
 - b. The reasons for the Department's action if Food Stamps are reduced or stopped. (6-1-94)

10. Fair Hearing. The right to request a fair hearing about the Department's decision. The right to request a fair hearing if the household feels discrimination has taken place in any way. Food Stamp fair hearings must be requested within ninety (90) days from the day notice is mailed. In certain situations, Food Stamps may continue if a fair hearing is requested. (6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

861. NO DISCRIMINATION IN FOOD STAMP PROGRAM.

The Department must not allow human rights discrimination in the Food Stamp Program. The Department will administer the Food Stamp program so no applicant or recipient in Idaho is discriminated for or against due to race, color, gender or age. The Department will administer the Food Stamp program so no applicant or recipient in Idaho is discriminated for or against, due to political or religious belief or affiliation, national origin, handicap or disability; ~~sexual orientation, or marital or family status.~~ (10-1-98)T(10-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED
DOCKET NO. 16-0305-9901
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202(b) and 39-106(l), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the January 6, 1999 Administrative Bulletin, Volume 99-1, pages 210 through 213.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at 334-5819.

DATED this 26th day of July, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 05

RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-1, January 6, 1999, pages 210 through 213.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED
DOCKET NO. 16-0305-9903
NOTICE OF TEMPORARY AND PROPOSED RULE

EDITOR'S NOTE: The Notice of Rulemaking and text for this docket were published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 100 through 104. The text was published correctly as both a temporary and proposed rule, however, the Notice of Rulemaking was incorrectly published as a Notice of Proposed Rule. This notice is being published here in its corrected form. There are no other changes to the notice or text of this rulemaking.

EFFECTIVE DATE: These temporary rules are effective August 1, 1999.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l); 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Decreases payment levels for Aid to the Aged, Blind and Disabled.

Updates the names of living arrangements from Adult Residential Care Facility to the new Residential and Assisted Living Facility (IDAPA 16.03.22) and Adult Foster Care to the new Certified Family Home (IDAPA 16.03.19).

Exempts a transfer of his or her own assets by a participant's spouse, after the participant's Medicaid eligibility is established, from the asset transfer penalty.

Requires participants in Residential and Assisted Living Facilities to choose between Aid to the Aged, Blind and Disabled cost and services under the Home and Community based services waiver.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety, and welfare and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 22, 1999.

DATED this 21st day of July, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone / (208) 334-5548 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9907
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective September 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: Due to concerns by parents, providers, and Department staff, a committee was formed to look at the existing Private Duty Nursing (PDN) rules. Negotiations were undertaken to clarify the PDN authorization process, modify the process to include parents, providers, the doctors and Department staff in determining whether the child meets criteria for PDN services and how many hours will be paid for by Medicaid.

The EPSDT rules were moved and renumbered to allow for sufficient room for the reformatting to align these rules with Department standards. In places where a specific Bureau name was mentioned, the text was changed to read "Department or its designee" so that promulgation of these rules is not needed each time a Bureau name is changed.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Dorrie Farnworth at (208) 364-1830.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 11th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9907

096. -- ~~098~~100. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

522. -- 5929. (RESERVED).

099530. EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT) SERVICE COORDINATION.

The Department will purchase case management services hereafter referred to as Service Coordination (SC) for Medicaid eligible children age birth to twenty-one (21) years of age who meet medical necessity criteria. (10-1-94)

01. Medical Necessity Criteria. Medical necessity criteria for SC services under EPSDT are as follows: (10-1-94)

a. Children eligible for SC must meet one of the following diagnostic criteria: (10-1-94)

i. Children who are diagnosed with a physical or mental condition which has a high probability of resulting in developmental delay or disability, or children with developmental delay or disability. Developmentally delayed children are children with or without established conditions who by assessment measurements have fallen significantly behind developmental norms in one or more of the five functional areas which include cognitive development; physical development including vision and hearing; communication; social/emotional development; and adaptive skills. (10-1-94)

ii. Children who have special health care needs requiring medical and multidisciplinary habilitation or rehabilitation services to prevent or minimize disability. Special health care needs may include a wide range of physical, mental, or emotional limitations from birth defects, illnesses, or injuries. (5-24-95)

iii. Children who have been diagnosed with a severe emotional/behavioral disorder under DSM-IV or subsequent revisions or another classification system used by the Department; and expected duration of the condition is at least one (1) year or more. (5-24-95)

b. Children eligible for SC must have one (1) or more of the following problems associated with their diagnosis: (10-1-94)

i. The condition requires multiple service providers and treatments; or (10-1-94)

ii. The condition has resulted in a level of functioning below age norm in one (1) or more life areas, such as school, family, or community; or (10-1-94)

iii. There is risk of out-of-home placement or the child is returning from an out-of-home placement as a result of the condition; or (10-1-94)

iv. There is imminent danger to the safety or ability to meet basic needs of the child as a result of the condition; or (10-1-94)

v. Further complications may occur as a result of the condition without provision of service coordination services; and (5-24-95)

vi. The family needs a service coordinator to assist them to access medical and other services for the child. (5-24-95)

02. Service Descriptions. SC services shall be delivered by eligible providers to assist the Medicaid child and their family to obtain and coordinate needed health, educational, early intervention, advocacy, and social services identified in an authorized SC plan developed by the Department or their contractor. Services must take place in the least restrictive, most appropriate and most cost effective setting. SC services shall consist of the following core functions: (10-1-94)

a. Coordination/Advocacy, which is the process of facilitating the child's access to the services, evaluations, and resources identified in the service plan. The case manager may advocate on behalf of the child and family for appropriate community resources and coordinate the multiple providers of social and health services defined in the service plan to avoid the duplication of services for the child. (10-1-94)

b. Monitoring, which is the ongoing process of ensuring that the child's service plan is implemented and assessing the child's progress toward meeting the goals outlined in the service plan and the family's satisfaction with the services. Direct in-person contact with the child and the child's family is essential to the monitoring process. (10-1-94)

c. Evaluation, which is the process of determining whether outcomes have been reached on the service plan, the need for additional revised outcomes, the need for a new plan, or if services are no longer needed. Evaluation is accomplished through periodic in-person reassessment of the child, consultation with the child's family, and consultation and updated assessment from other providers. The addition of new services to the plan or increase in the amount of an authorized service on the existing plan must be authorized by the Department prior to implementation. (5-24-95)

d. Crisis Assistance, which are those SC activities that are needed in emergency situations in addition to those identified on the service plan. These are necessary activities to obtain needed services to ensure the health or safety of the child. To the extent possible the plan should include instructions for families to access emergency services in the event of a crisis. If a need for twenty-four (24) hour availability of service coordination is identified, then arrangements will be made and included on the plan. (10-1-94)

e. Encouragement of Independence, which is the demonstration to the child, parents, family, or legal guardian of how to best access service delivery systems. (10-1-94)

03. SC Provider Agency Qualifications. SC provider agencies must have a valid provider agreement with the Department and meet the following criteria: (10-1-94)

a. Demonstrated experience and competency in providing all core elements of service coordination services to children meeting the medical necessity criteria. (5-24-95)

b. Level of knowledge sufficient to assure compliance with regulatory requirements. Adherence to provision of provider agreement for EPSDT service coordination. Provider agreement may include, but is not limited to, requirements for training, quality assurance, and personnel qualifications. (10-1-94)

04. Service Coordination Individual Provider Staff Qualifications. All individual SC providers must be employees of an organized provider agency that has a valid SC provider agreement with the Department. The employing entity will supervise the individual SC providers and assure that the following qualifications are met for each individual SC provider: (10-1-94)

a. Must be a licensed M.D., D.O., social worker, R.N., or have at least a B.A./B.S. in human/health services field; and have at least one (1) year's experience working with children meeting the medical necessity criteria. (5-24-95)

b. Individuals without the one (1) year experience may gain this experience by working for one (1) year under the supervision of an individual who meets the above criteria. (5-24-95)

c. Paraprofessionals, under the supervision of a qualified SC, may be used to assist in the implementation of the service plan. Paraprofessionals must meet the following qualifications: be eighteen (18) years of age and have a high school diploma or the equivalent (G.E.D.); be able to read at a level commensurate with the general flow of paperwork and forms; meet the employment standards and required competencies of the provider agency; and meet the training requirements according to the agency provider agreement. (10-1-94)

d. Pass a criminal history background check. (10-1-94)

e. The caseload of service coordinators will be limited to fifty (50) when using one (1) or more paraprofessionals to implement the plan. If not using paraprofessionals, the individual service coordinator's caseload shall not exceed thirty-five (35). At no time will the total caseload of a service coordinator be so large as to violate the purpose of the program or adversely affect the health and welfare of any children served by the service coordinator. A waiver of the caseload limit may be granted by the Department on a case by case basis and must meet the following criteria: (5-24-95)

i. The availability of service coordinators is not sufficient to meet the needs of the service area; or (5-24-95)

ii. The recipient's family who has chosen the particular service coordinator who has reached his limit, has just cause to need that particular provider over other available providers; or (5-24-95)

iii. The individual service coordinator's caseload consists of twenty-five percent (25%) or more maintenance level (two (2) hours per month or less of service coordination services) recipients; and (5-24-95)

iv. The request for waiver must include: (5-24-95)

(1) The time period for which the waiver is requested; and (5-24-95)

(2) The alternative caseload limit requested; and (5-24-95)

(3) Documentation that the granting of the waiver would not diminish the effectiveness of the service coordinator's services, violate the purposes of the program, or adversely affect the health and safety of any of the service coordinator's consumers. (5-24-95)

v. The Department may impose any conditions, including limiting the duration of a waiver, which they deem necessary to ensure the quality of the service coordination services provided. (5-24-95)

05. Recipient's Choice. The eligible child's family, custodian, or legal guardian will be allowed to choose whether or not they desire to receive SC services. All eligible children and their families who choose to receive SC services will have free choice of qualified SC providers as well as the qualified providers of medical and other services under the Medicaid program. (10-1-94)

06. Payment For Services. When a recipient is enrolled in managed care/Healthy Connections, the referral for assessment and services must be authorized by primary care providers. When an assessment indicates the need for medical, advocacy, psychiatric, social, educational, early intervention or other services, referral or arrangement for such services may be included as SC services; however, the actual provision of the service does not constitute SC. Medicaid will reimburse for SC services only when ordered by a physician/nurse practitioner/physician assistant and provided by qualified staff of an approved provider agency or their contractor to eligible children who meet the medical necessity criteria. (5-24-95)

a. Payment for SC will not duplicate payment made to public or private entities under other program authorities for the same purpose. (10-1-94)

b. Payment will not be made for SC services provided to children who are inpatients in nursing facilities or hospitals, other than activities performed within the last thirty (30) days of residence which are directed toward discharge and do not duplicate services included in the facility's content of care. (10-1-94)

c. Reimbursement for ongoing SC services shall be paid on a fee for service basis for service delivered. The rate shall be established by the ~~Bureau of Medicaid Policy and Reimbursement~~ Department or its designee. (10-1-94)(9-1-99)T

d. Medicaid reimbursement shall be provided only for the following SC services: (10-1-94)

i. Face to face contact between the service coordinator and the eligible child, the child's family members, custodian, legal representative, primary care givers, service providers, or other interested groups or

persons; (10-1-94)

ii. Telephone contact between the service coordinator and the child, the child's service providers, the child's family members, custodian or legal guardian, primary caregivers, legal representative, or other interested persons. (10-1-94)

e. Except for crisis assistance the Department will not provide Medicaid reimbursement for ongoing SC services delivered prior to development of the plan by the Department. (10-1-94)

f. Audit reviews will be completed by the Department. (10-1-94)

g. Plans must be reviewed, updated as needed and re-authorized by the Department/Contractor at least annually. Documentation of provision of services will be reviewed and progress toward expected outcomes will be evaluated. Documentation of satisfaction with services and supports will be obtained from parents, family and guardians. (10-1-94)

h. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of payments for services, sanctions, or both. (10-1-94)

i. The Department will not provide Medicaid reimbursement for SC services provided to a group of children at the same time. (10-1-94)

j. Medicaid will reimburse for SC services on the same date a child is admitted to a hospital, nursing facility, or other institutional setting, so long as the child is not yet admitted at the time of the service delivery. (10-1-94)

07. Record Requirements. The following documentation must be maintained by the provider: (10-1-94)

a. Name of eligible child; and (10-1-94)

b. Name of provider agency and person providing the service; and (10-1-94)

c. A copy of the current approved SC plan which includes the expected outcomes and objectives and is signed by the child's parents, custodian or legal guardian, and the authorizing representative of the Department; and (10-1-94)

d. Date, time, and duration of service; and (10-1-94)

e. Place of service; and (10-1-94)

f. Activity record describing the child and the service provided; and (10-1-94)

g. Documented review of progress toward each SC service plan goal; and (10-1-94)

h. Documentation from parents, family, and guardians of their satisfaction with services and supports. (5-24-95)

i. A copy of the signed informed consent. (5-24-95)

08. Confidentiality. No personally identifiable information may be released in the absence of written informed consent for release by the child's parent, custodian or legal guardian. (5-24-95)

09. Informed Consent. Informed consent must include an explanation of service coordination and the rights and responsibilities of recipient confidentiality assured through existing state laws and rules. (5-24-95)

531. -- 534. (RESERVED).

535. HEALTH CHECK -- EARLY PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT).

Services under Health Check are available to all MA recipients up to and including the month of their twenty-first (21st) birthday. (12-31-91)

536. EPSDT SERVICES.

EPSDT services include diagnosis and treatment involving medical care within the scope of MA, as well as dental services, eyeglasses, and hearing aids, and such other necessary health care described in Section 1905(a) of the Social Security Act, and not included in the Idaho Title XIX State Plan as required to correct or ameliorate defects and physical and mental illness discovered by the screening service. (1-27-91)

a01. Amount, Duration And Scope Of Services. The Department will set amount, duration and scope for services provided under EPSDT. (~~1-27-91~~)(9-1-99)T

b02. Services Must Be Medically Necessary. Needs for services discovered during an EPSDT screening which are outside the coverage provided by the Rules Governing Medical Assistance must be shown to be medically necessary and the least costly means of meeting the recipient's medical needs to correct or improve the physical or mental illness discovered by the screening and ordered by the physician, nurse practitioner or physician's assistant. (~~1-1-97~~)(9-1-99)T

e03. Services Not Covered. The Department will not cover services for cosmetic, convenience or comfort reasons. (~~1-27-91~~)(9-1-99)T

e04. Prior Authorization For Medical Necessity. Any service requested which is covered under Title XIX of the Social Security Act that is not identified in these rules specifically as a Medicaid covered service will require preauthorization for medical necessity prior to payment for that service. (~~8-1-92~~)(9-1-99)T

e05. Additional Services. Any service required as a result of an EPSDT screen and which is currently covered under the scope of the Idaho Medicaid program will not be subject to the existing amount, scope, and duration, but will be subject to the authorization requirements of those rules. The additional service must be documented by the attending physician as to why it is medically necessary and that the service requested is the least costly means of meeting the recipient's medical needs. Preauthorization from the ~~Bureau of Medicaid Policy and Operations~~ Department or its designee will be required prior to payment as specified in the ~~Medical Vendor Provider Handbook~~. (~~4-1-98~~)(9-1-99)T

#06. Services Which Are Least Costly. Those services that have not been shown or documented by the attending physician to be the least costly means of meeting the recipient's medical needs are the responsibility of the recipient. (~~8-1-92~~)(9-1-99)T

537. WELL CHILD SCREENS.

a01. Periodic Medical Screens. Periodic medical screens should be completed at the following intervals as recommended by the American Academy of Pediatrics (AAP), Committee in Practice and Ambulatory Medicine, September 1987. A copy may be obtained from the AAP by calling (800) 433-9016. Physicians and physician extenders will be required to bill using the appropriate Physician's Current Procedural Terminology (CPT) codes, under section "Preventive Medicine Services". EPSDT RN screeners will be required to bill using codes established by the Department, except when the EPSDT RN screener is an employee of a rural health clinic, Indian Health Clinic, or federally qualified health clinic. (~~7-1-94~~)(9-1-99)T

ia. One (1) screen at or by age one (1) month, two (2) months, three (3) months, four (4) months, six (6) months and nine (9) months. (8-1-92)

ib. One (1) screen at or by age twelve (12) months, fifteen (15) months, eighteen (18) months, and twenty-four (24) months. (8-1-92)

- ~~iii~~c. One (1) screen at or by age three (3) years, age four (4) years and age five (5) years. (8-1-92)
- ~~iv~~d. One (1) screen at or by age six (6) years, age eight (8) years, age ten (10) years, age twelve (12) years and age fourteen (14) years. (8-1-92)
- ~~v~~e. One (1) screen at or by age sixteen (16) years, age eighteen (18) years and age twenty (20) years. (8-1-92)
- ~~vi~~f. One (1) screen at initial program entry, up to the recipient's twenty-first birthday. (8-1-92)

b02. Interperiodic Medical Screens. Interperiodic medical screens are screens that are done at intervals other than those identified in the basic medical periodicity schedule in Subsection ~~100537.021-a~~ and must be performed by physician or physician extender. Interperiodic screens will be ~~required to be~~ billed using the correct Physician's Current Procedural Terminology (CPT) under section "Evaluation and Management". ~~(8-1-92)(9-1-99)T~~

~~ia~~. Interperiodic screens will be performed when there are indications that it is medically necessary to determine whether a child has a physical or mental illness or condition that may require further assessment, diagnosis, or treatment. (8-1-92)

~~ib~~. Interperiodic screening examinations may occur in children who have already been diagnosed with an illness or condition, and there is indication that the illness or condition may have become more severe or changed sufficiently, so that the further examination is medically necessary. (8-1-92)

e03. Developmental Screens. Developmental screening is considered part of every routine initial and periodic examination. If the screening identifies a developmental problem then a developmental assessment will be ordered by the physician and be conducted by qualified professionals. ~~(1-27-91)(9-1-99)T~~

d04. EPSDT RN Screeners. EPSDT RN screeners will routinely refer all clients to primary care providers. EPSDT clients ages two (2) weeks to two (2) years shall receive at least one (1) of their periodic or inter-periodic screens annually from a physician or physician extender unless otherwise medically indicated. A parent or guardian may choose to waive this requirement. EPSDT RN screeners will refer clients for further evaluation, diagnosis and treatment to appropriate services (e.g. physician, registered dietitian, developmental evaluation, speech, hearing and vision evaluation, blood lead level evaluation). Efforts shall be made to assure that routine screening will not be duplicated for children receiving routine medical care by a physician. ~~(3-22-93)(9-1-99)T~~

~~03538.~~ VISION SERVICES.

a01. Vision Screens. The Department will provide vision screening services according to the recommended guidelines of the AAP. The screen administered will be an age-appropriate vision screen. The guidelines coincide with certain scheduled medical screens, as specified in Subsection ~~100537.02~~ of these rules, the vision screen is considered part of the medical screening service, (i.e. eye chart). ~~(8-1-92)(9-1-99)T~~

b02. Eye Exam Limitations. During any twelve (12) month period ~~T~~the Department will pay for one (1) eye examination ~~for each eligible recipient~~ by an ophthalmologist or optometrist during any twelve (12) month period ~~for each eligible recipient~~ to determine the need for glasses to correct or treat refractive error as outlined in Section 122. ~~(8-1-92)(9-1-99)T~~

e03. Eyeglass Limitations. Each eligible MA recipient, following a diagnosis of visual defects and a recommendation that eyeglasses are needed for correction of a refractive error, ~~can receive~~ is limited to one (1) pair of eyeglasses per year, except in the following circumstances: ~~(11-10-81)(9-1-99)T~~

~~ia~~. In the case of a major visual change, the Department can authorize purchase of a second pair of eyeglasses and can authorize a second eye examination to determine that visual change; or (2-15-86)

~~ib~~. The Department may pay for replacement of lost glasses or replacement of broken frames or lenses. New frames will not be purchased if the broken frame can be repaired for less than the cost of new frames if the provider indicates one of these reasons on his claim. If repair costs are greater than the cost of new frames, new

frames may be authorized.

(2-15-86)

04539. HEARING AIDS AND SERVICES.

The Department will provide hearing screening services according to the recommended guidelines of the AAP.

(8-1-92)(9-1-99)T

a01. Hearing Screens. The screen administered will be an age-appropriate hearing screen. The guidelines coincide with certain scheduled medical screens, in accordance with Subsection 100537-02, the hearing screen is considered part of the medical screening service.

(8-1-92)(9-1-99)T

b02. Hearing Services Paid Under EPSDT. EPSDT hearing services will pay for audiology services and supplies ordered by a licensed physician and supplied by a physician or certified audiologist, in accordance with Section 108, with the following exceptions:

(8-1-92)(9-1-99)T

ia. When binaural aids are requested they will be authorized if documented to the Department's satisfaction, that the child's ability to learn would be severely restricted.

(4-1-98)T

ib. When replacement hearing aids are requested, they may be authorized if the requirements in Subsections 108.03.a. through 108.03.d. are met.

(8-1-92)

ic. The Department will purchase additional ear molds after the initial six (6) months to one (1) year period if medically necessary. Requests in excess of every six (6) months will require prior authorization and documentation of medical need from either the attending physician or audiologist.

(8-1-92)

05540. EPSDT REGISTERED NURSE SCREENER.

A registered licensed professional nurse (RN) who is currently licensed to practice in Idaho, and who meets the following provisions:

(3-22-93)(9-1-99)T

a01. Training Requirements. Can produce proof of completion of the Medicaid Child Health Assessment training course (or equivalent as approved by Medicaid) that:

(3-22-93)(9-1-99)T

ia. Prepares the RN to identify the difference between screening, diagnosis and treatment; and prepares the RN to appropriately screen and differentiate between normal and abnormal findings.

(3-22-93)

ib. Includes at least five (5) days didactic instruction in child health assessment, accompanied by a component of supervised clinical practice.

(3-22-93)

b02. Linkage To Primary Care Services. Is employed by a physician, district health department, rural health clinic, Indian Health Clinic, or federally qualified health clinic in order to provide linkage to primary care services. The employers must have a signed Medicaid Provider Agreement and Provider Number.

(3-22-93)(9-1-99)T

e03. Consultation. Has an established agreement with a physician or nurse practitioner for consultation on an as-needed basis.

(3-22-93)(9-1-99)T

541. -- 543. (RESERVED).

~~**06. Private Duty Nursing Service.** Private Duty Nursing Service provided by an Idaho licensed nurse to certain eligible children for whom the need for such service has been identified in an EPSDT screen. Private Duty Nursing is one (1) nurse dedicated to one hundred percent (100%) of his time to the care of one (1) recipient at the time Private Duty Nursing service is given. The nursing needs cannot be services that can be performed by a Certified Nursing Assistant as in Section 146, but must be of such a technical nature that the Idaho Nurse Practice Act, Rules, Regulations, or Policy require the service to be provided by an Idaho Licensed Professional Nurse, (RN) or by an Idaho Licensed Practical Nurse (LPN), and require more individual and continuous care than is available from a visiting nurse (Home Health visit). Private Duty Nursing Service must be authorized by the Bureau of Medicaid Policy and Reimbursement prior to delivery of service.~~

(7-1-94)

- a. ~~Services needed must include at least one (1) of the following nursing tasks:- (1-27-91)~~
- i. ~~The insertion and maintenance of nasogastric tubes and the monitoring or installation of feeding material; or (7-1-94)~~
- ii. ~~The maintenance of volume ventilators including associated tracheotomy care; or (1-27-91)~~
- iii. ~~Tracheotomy and oral pharyngeal suctioning; or (1-27-91)~~
- iv. ~~Maintenance and monitoring of an IV site and administration of IV fluids and/or nutritional supplements which are to be administered on a continuous, or daily basis. (1-27-91)~~
- v. ~~A licensed nursing assessment of the child's health is required prior to the administration of a non-routine medication. Non-routine medication is medication for which the administration and amount given to a patient is subject to the findings of a licensed nurse's assessment. Non-routine medication necessary for a health assessment must be required more frequently than once per day for unstable chronic conditions. The fragile health and medication status are so complex that a certified nurse's aide could not be instructed to assist with medication according to the rules of the Idaho Board of Nursing. (8-1-92)~~
- b. ~~Private Duty Nursing Services may be provided only in the recipient's personal residence or when normal life activities take the recipient outside of this setting. Examples of normal life activities would be those hours a recipient would be outside the home setting to attend school or visit their assessment physician. However, if a recipient requests this service only to attend school or other activities outside of the home, but does not need such services in the home, private duty nursing will not be authorized. The following are specifically excluded as personal residences:- (8-1-92)~~
- i. ~~Licensed Nursing Facilities (NF); and (7-1-94)~~
- ii. ~~Licensed Intermediate Care Facilities for the Mentally Retarded (ICF/MR); and (1-27-91)~~
- iii. ~~Licensed Residential Care Facilities; and (1-27-91)~~
- iv. ~~Licensed professional foster homes; and (1-27-91)~~
- v. ~~Licensed hospitals; and (1-27-91)~~
- vi. ~~Public or private school. (1-27-91)~~
- e. ~~Services delivered must be in a written plan of care, and the plan of care must: (1-27-91)~~
- i. ~~Include all aspects of the medical, licensed, and personal care services necessary to be performed, including the amount, type, and frequency of such service; and (1-27-91)~~
- ii. ~~Must be approved and signed by the attending physician; and (1-27-91)~~
- iii. ~~Must be revised and updated as recipient's needs change, but at least quarterly, and must be submitted to the Medicaid Program. (7-1-94)~~
- d. ~~Physician responsibilities: (1-27-91)~~
- i. ~~Provide the Department the necessary medical information in order to establish the recipient's medical eligibility for services based on an EPSDT medical screen. (1-27-91)~~
- ii. ~~Order all services to be delivered by the private duty nurse. (1-27-91)~~
- iii. ~~Sign and date all orders, and the recipient's care plan. (1-27-91)~~

- ~~iv. Update recipient's care plan quarterly, sign and record date of plan approval. (7-1-94)~~
- ~~v. Determine if the combination of Private Duty Nursing Services along with other community resources are sufficient to ensure the health or safety of the recipient. If it is determined that the resources are not sufficient to ensure the health and safety of the recipient, notify the family and the Department and assist in placement of the recipient in the appropriate medical facility. (1-27-91)~~
- ~~e. Nurse responsibilities: (1-27-91)~~
 - ~~i. Notify the physician immediately of any significant changes in the recipient's physical condition or response to the service delivery. (1-27-91)~~
 - ~~ii. Notify the Bureau of Medicaid Policy and Reimbursement within forty eight (48) hours of any changes in the recipient's condition or if the recipient is hospitalized at any time. Failure to submit such notification will result in recoupment of payment for private duty nursing services. (7-1-94)~~
 - ~~iii. Evaluate changes of condition. (1-27-91)~~
 - ~~iv. Provide services in accordance with the physician's plan of care. (1-27-91)~~
 - ~~v. Records are to be maintained in the recipient's home. Failure to maintain such documentation may result in the recoupment of funds paid for undocumented services. Records of care must include: (8-1-92)~~
 - ~~(1) The date. (1-27-91)~~
 - ~~(2) Time of start and end of service delivery. (1-27-91)~~
 - ~~(3) Comments on client's response to services delivered. (1-27-91)~~
 - ~~(4) Nursing assessment of recipient's status and any changes in that status per each working shift. (8-1-92)~~
 - ~~(5) Services provided during each working shift. (8-1-92)~~
 - ~~vi. In the case of L.P.N. providers, document that oversight of services by an R.N. is in accordance with the Idaho Nurse Practice Act and the Rules and Policies of the Idaho Board of Nursing. (1-27-91)~~
 - ~~vii. Notify the physician if the combination of Private Duty Nursing Services along with other community resources are not sufficient to ensure the health or safety of the recipient. (1-27-91)~~
- ~~f. Case redetermination for Private Duty Nursing: (8-1-92)~~
 - ~~i. Redetermination will be at least quarterly. Each recipient's medical records will be reviewed by the Bureau of Medicaid Policy and Operations for medical necessity criteria found in Section 100. (7-1-99)~~
 - ~~ii. The purpose of redetermination for Private Duty Nursing is to safeguard against unnecessary care and services and to determine that the care being provided is medically necessary and safe and effective in the home setting. (8-1-92)~~
- ~~g. Factors assessed for redetermination: (8-1-92)~~
 - ~~i. That the recipient can and is being maintained in their personal residence and receive safe and effective services through Private Duty Nursing services. (8-1-92)~~
 - ~~ii. That recipients receiving Private Duty Nursing services have medical justification and physicians' orders. (7-1-99)~~

- ~~iii. That there is an updated written plan of care, signed by the attending physician. (8-1-92)~~
- ~~iv. That the attending physician has determined the number of Private Duty Nursing hours needed to ensure the health and safety of the recipient in his home. (8-1-92)~~
- ~~v. That all Private Duty Nursing services are provided according to Subsection 100.05.b. (8-1-92)~~
- ~~vi. That the service or services being provided include at least one of the nursing tasks outlined in Subsections 100.05.a.i. through 100.05.a.iv. (8-1-92)~~
- ~~h. Provide responsibilities for Private Duty Nursing redetermination: (7-1-99)~~
 - ~~i. To submit a current plan of care to the Bureau of Medicaid Policy and Operations at least quarterly or as the recipient's needs change. Failure to submit an updated plan of care to the Bureau prior to the end date of the last authorization will cause payments to cease until completed information is received and evaluated and authorization given for further Private Duty Nursing services. The plan of care must include all requested material outlined in Subsection 100.05.c. (7-1-99)~~
 - ~~ii. To inform the Bureau of Medicaid Policy and Operations within ten (10) calendar days of any changes in service needed by the recipient which qualify that recipient for Private Duty Nursing services. The Bureau must receive notification within ten (10) calendar days. Failure to report these changes in patient status will result in the recoupment of funds paid to the Private Duty Nursing provider. (7-1-99)~~
- ~~i. Nonmedical transportation, such as to the grocery store, is not reimbursable by the Medicaid Program. Medical transportation of the recipient, such as to a physician's office, is not a covered service under the Private Duty Nursing Program but may be covered under the transportation section of the Medicaid Program. (1-27-91)~~
- ~~**07. Nutritional Services.** Nutritional services include intensive nutritional education, counseling, and monitoring by a registered dietician or an individual who has a baccalaureate degree granted by a U.S. regionally accredited college or university and has met the academic/professional requirements in dietetics as approved by the American Dietetic Association to assure the patient's proper nutrition. Payment is made at a rate established in accordance with Subsection 060.04. Nutrition services: (12-31-91)~~
 - ~~a. Must be discovered by the screening services and ordered by the physician; and (1-27-91)~~
 - ~~b. Must be medically necessary; and (1-27-91)~~
 - ~~c. Must not be due to obesity; and (1-27-91)~~
 - ~~d. If over two (2) visits per year are needed, must be authorized by the Medicaid Program prior to the delivery of additional visits. (1-27-91)~~
- ~~**08. Drugs.** Drugs not covered by the Idaho Medicaid Program: (1-27-91)~~
 - ~~a. Must be discovered as being medically necessary by the screening services; and (1-27-91)~~
 - ~~b. Must be ordered by the attending physician; and (1-27-91)~~
 - ~~c. Must be authorized by the Medicaid Program prior to purchase of the drug. (1-27-91)~~
- ~~**09. Oxygen And Related Equipment.** Oxygen and related equipment are subject to Subsections 107.01.a., 107.01.b., and 107.01.d. and Subsections 107.04 and 107.05 except when discovered during screening services; physician ordered and meet the following requirements: (8-1-92)~~
 - ~~a. Oxygen services, PRN or as ordered on less than a continual basis, will be authorized for six (6) months following receipt of medical documentation from the attending physician as to an acute or chronic medical~~

~~condition which requires oxygen support to maintain respiratory status. Medical documentation will include a diagnosis, oxygen flow rate and concentration and an estimate of the frequency and duration of use. (8-1-92)~~

~~b. Portable oxygen systems may be covered to complement a stationary system if the recipient is respirator dependent, or the attending physician documents the need for a portable oxygen system for use in transportation. (1-27-91)~~

e. Laboratory evidence of hypoxemia is not required. (1-27-91)

544. DEFINITIONS FOR PRIVATE DUTY NURSING.

The following definitions apply to Sections 545 through Subsection 550.07 only. (9-1-99)T

01. Primary RN. The RN identified by the family to be responsible for development, implementation, and maintenance of the Medical Plan of Care. (9-1-99)T

02. Private Duty Nursing (PDN) RN Supervisor. An RN providing oversight of PDN services delegated to LPNs providing the child's care, in accordance with IDAPA 23.01.01, "Rules of the Board of Nursing". (9-1-99)T

545. PRIVATE DUTY NURSING SERVICE.

Private Duty Nursing services are nursing services provided by a licensed professional nurse or licensed practical nurse to a non-institutionalized child under the age of twenty-one (21) requiring care for conditions of such medical severity or complexity that skilled nursing care is necessary. The nursing needs must be of such a nature that the Idaho Nursing Practice Act, Rules, Regulations, or Policy require the service to be provided by an Idaho Licensed Professional Nurse (RN), or by an Idaho Licensed Practical Nurse (LPN), and require more individual and continuous care than is available from Home Health nursing services. PDN service must be authorized by the Department or its designee prior to delivery of service. (9-1-99)T

01. Services. PDN Services must be ordered by a physician, and include: (9-1-99)T

a. A function which can not be delegated to an Unlicensed Assistive Personnel (UAP) as defined by Idaho Code and IDAPA 23.01.01, "Rules of the Board of Nursing". (9-1-99)T

b. An assessment by a licensed professional nurse of a child's health status for unstable chronic conditions, which includes: (9-1-99)T

i. A medical status that is so complex or unstable, as determined by the attending physician, that licensed or professional nursing assessment is needed to determine the need for changes in medications or other interventions; or (9-1-99)T

ii. A licensed or professional nursing assessment to evaluate the child's responses to interventions or medications. (9-1-99)T

02. Residences. PDN Services may be provided only in the child's personal residence or when normal life activities take the child outside of this setting. However, if service is requested only to attend school or other activities outside of the home, but does not need such services in the home, private duty nursing will not be authorized. The following are specifically excluded as personal residences: (9-1-99)T

a. Licensed Nursing Facilities (NF); (9-1-99)T

b. Licensed Intermediate Care Facilities for the Mentally Retarded (ICF/MR); (9-1-99)T

c. Licensed Residential Care Facilities; (9-1-99)T

d. Licensed hospitals; and (9-1-99)T

e. Public or private school. (9-1-99)T

- 03. Plan Of Care.** Services delivered must be in a written plan of care, and the plan of care must: (9-1-99)T
- a. Be developed by a multi-disciplinary team to include, at a minimum, the parent or legal guardian, the primary PDN, RN, or RN Supervisor, and a representative from the Department or its designee; (9-1-99)T
 - b. Include all aspects of the medical, licensed, and personal care services medically necessary to be performed, including the amount, type, and frequency of such service; (9-1-99)T
 - c. Must be approved and signed by the attending physician, parent or legal guardian, and primary PDN, RN, or RN supervisor, and a representative from the Department or its designee; and (9-1-99)T
 - d. Must be revised and updated as child's needs change or upon significant change of condition, but at least annually, and must be submitted to the Department or its designee for review and prior authorization of service. (9-1-99)T
- 04. Status Updates.** Must be completed every ninety (90) days from the start of services. The Status Update is intended to document any change in the child's health status. Annual plan reviews will replace the fourth quarter Status Update. The Status Update must be signed by both the parent or legal guardian and the primary RN supervisor completing the form. (9-1-99)T
- 546. REDETERMINATION ANNUALLY.**
Redetermination will be at least annually. The purpose of an annual redetermination for PDN is to: (9-1-99)T
- 01. Review Eligibility.** Determine if the child continues to meet the PDN criteria in Section 545 of these rules. (9-1-99)T
 - 02. Review Services And Care Are Medically Necessary And Appropriate.** Assure that services and care are medically necessary and appropriate. (9-1-99)T
- 547. FACTORS ASSESSED FOR REDETERMINATION.**
Factors assessed for redetermination include: (9-1-99)T
- 01. Maintained In Personal Residence.** That the child is being maintained in their personal residence and receives safe and effective services through PDN services. (9-1-99)T
 - 02. Medical Justification.** The child receiving PDN services has medical justification and physician's orders. (9-1-99)T
 - 03. Written Plan Of Care.** That there is an updated written plan of care signed by the attending physician, the parent or legal guardian, PDN, RN supervisor, and a representative from the Department or its designee. (9-1-99)T
 - 04. Attending Physician.** That the attending physician has determined the number of PDN hours needed to ensure the health and safety of the child in his home. (9-1-99)T
- 548. PRIMARY RN RESPONSIBILITY FOR PDN REDETERMINATION.**
Primary RN responsibility for PDN redetermination is to submit a current plan of care to the Department or its designee at least annually or as the child's needs change. Failure to submit an updated plan of care to the Department or its designee prior to the end date of the most recent authorization will cause payments to cease until completed information is received and evaluated and authorization given for further PDN services. The plan of care must include all requested material outlined in Subsection 545.03.a. through 545.03.d. of these rules. (9-1-99)T
- 549. PHYSICIAN RESPONSIBILITIES.**
Physician Responsibilities include: (9-1-99)T

01. Medical Information. Provide the Department or its designee the necessary medical information in order to establish the child's medical eligibility for services based on an EPSDT screen. (9-1-99)T

02. Order Services. Order all services to be delivered by the private duty nurse. (9-1-99)T

03. Sign Medical Plan Of Care. Review, sign, and date child's Medical Plan of Care and orders at least annually or as condition changes. (9-1-99)T

04. Community Resources. Determine if the combination of PDN Services along with other community resources are sufficient to ensure the health or safety of the child. If it is determined that the resources are not sufficient to ensure the health and safety of the child, notify the family and the Department or its designee and facilitate the admission of the child to the appropriate medical facility. (9-1-99)T

550. PRIVATE DUTY NURSE RESPONSIBILITIES. RN supervisor or an RN providing PDN services responsibilities include: (9-1-99)T

01. Notification Of Physician. Notify the physician immediately of any significant changes in the child's medical condition or response to the service delivery. (9-1-99)T

02. Notification Of Department Or Its Designee. Notify the Department or its designee within forty-eight (48) hours or on the first business day following a weekend or holiday of any significant changes in the child's condition or if the child is hospitalized at any time. (9-1-99)T

03. Evaluation Of Condition. Evaluate changes of condition. (9-1-99)T

04. Provide Services. Provide services in accordance with the nursing care plan. (9-1-99)T

05. Records Of Care. Private Duty Nurse ensures copies of records are to be maintained in the child's home. Records of care must include: (9-1-99)T

a. The date; (9-1-99)T

b. Time of start and end of service delivery each day; (9-1-99)T

c. Comments on child's response to services delivered; (9-1-99)T

d. Nursing assessment of child's status and any changes in that status per each working shift; (9-1-99)T

e. Services provided during each working shift; and (9-1-99)T

f. The Medical Plan of Care signed by the physician, primary RN, the parent or legal guardian and a representative from the Department. (9-1-99)T

06. LPN Providers. In the case of LPN providers, document that oversight of services by an RN is in accordance with the Idaho Nursing Practice Act and the Rules and IDAPA 23.01.01, "Rules of the Board of Nursing". (9-1-99)T

a. RN Supervisor visits must occur at least once every thirty (30) days. (9-1-99)T

07. Insure Health And Safety Of Children. Notify the physician if the combination of Private Duty Nursing Services along with other community resources are not sufficient to ensure the health or safety of the child. (9-1-99)T

551. -- 599. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9908

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective November 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The following changes were made in the waiver rules that effect the Developmental Disabilities Waiver and the ISSH Waiver:

1. The Respite Care definition was modified to allow for more flexibility of where the service can occur.
2. The requirement for a participant to have lived in an institution prior to accessing a waiver service for supported employment has been removed due to a change in Federal requirements.
3. Adult Day Care is a service being added to the menu of services available on the DD and ISSH waivers.
4. The living situations that are excluded as a personal residence have been modified to reflect the changes brought about by the Certified Family Home Rules.
5. The requirement for semi-annual plan revision has been deleted because of the requirement of monthly visits that are centered around plan review as well.
6. In the section on provider qualifications changes were made to incorporate current language.
7. Modifications in age requirements for waiver eligibility is changing from twenty-one (21) to eighteen (18). This change was made to allow for individuals receiving services under Katie Beckett (which ends at age eighteen (18)) to continue services without a break in service delivery while they wait to turn twenty-one (21).

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Jean Christensen at (208) 364-1828.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 4th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-9908

143. WAIVER SERVICES FOR ADULT DEVELOPMENTALLY DISABLED RECIPIENTS.

Pursuant to 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible recipients in order to prevent unnecessary institutional placement, to provide for the greatest degree of independence possible, to enhance the quality of life, to encourage individual choice, and to achieve and maintain community integration. For a recipient to be eligible, the Department must find that the recipient requires services due to a developmental disability which impairs their mental or physical function or independence, be capable of being maintained safely and effectively in a non-institutional setting and would, in the absence of such services, need to reside in an ICF/MR. (7-1-95)

01. Services Provided. (7-1-95)

a. Residential habilitation services which consist of an integrated array of individually-tailored services and supports furnished to eligible recipients which are designed to assist them to reside successfully in their own homes, with their families, or alternate family homes. The services and supports that may be furnished consist of the following: (7-1-97)

i. Habilitation services aimed at assisting the individual to acquire, retain or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas: (7-1-97)

(1) Self-direction, including the identification of and response to dangerous or threatening situations, making decisions and choices affecting the individual's life, and initiating changes in living arrangements or life activities; (7-1-95)

(2) Money management including training or assistance in handling personal finances, making purchases, and meeting personal financial obligations; (7-1-95)

(3) Daily living skills including training in accomplishing routine housekeeping tasks, meal preparation, dressing, personal hygiene, self administration of medications, and other areas of daily living including proper use of adaptive and assistive devices, appliances, home safety, first aid, and emergency procedures; (7-1-95)

(4) Socialization including training or assistance in participation in general community activities and establishing relationships with peers with an emphasis on connecting the recipient to their community. (Socialization training associated with participation in community activities includes assisting the recipient to identify activities of interest, working out arrangements to participate in such activities and identifying specific training activities necessary to assist the recipient to continue to participate in such activities on an on-going basis. Socialization training does not include participation in nontherapeutic activities which are merely diversional or recreational in nature); (7-1-95)

(5) Mobility, including training or assistance aimed at enhancing movement within the person's living arrangement, mastering the use of adaptive aids and equipment, accessing and using public transportation, independent travel, or movement within the community; (7-1-95)

(6) Behavior shaping and management includes training and assistance in appropriate expressions of emotions or desires, assertiveness, acquisition of socially appropriate behaviors; or extension of therapeutic services, which consist of reinforcing physical, occupational, speech and other therapeutic programs. (7-1-95)

ii. Personal Assistance Services necessary to assist the individual in daily living activities, household tasks, and such other routine activities as the recipient or the recipient's primary caregiver(s) are unable to accomplish on his own behalf. (7-1-95)

iii. Skills training to teach waiver recipients, family members, alternative family caregiver(s), or a

recipient's roommate or neighbor to perform activities with greater independence and to carry out or reinforce habilitation training. Services are focused on training and are not designed to provide substitute task performance. Skills training is provided to encourage and accelerate development in independent daily living skills, self direction, money management, socialization, mobility and other therapeutic programs. (7-1-95)

b. Chore services which are heavy household maintenance and minor home repairs necessary to maintain the functional use of the home and to provide a clean, sanitary and safe environment. Chore activities include washing windows; moving heavy furniture and shoveling snow to provide safe access inside and outside the home; chopping wood when wood is the recipient's primary source of heat; and tacking down loose rugs and flooring. These services are only available when neither the recipient, nor anyone else in the household is capable of performing or financially providing for them, and where no other relative, caretaker, landlord, community volunteer/agency or third party payor is capable of or responsible for their provision. In the case of rental property, the responsibility of the landlord, pursuant to the lease agreement, will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the recipient. (7-1-95)

c. Respite care services ~~which are those services provided, on a short term basis, in the home of either the waiver recipient or respite provider, to relieve the person's family or other primary caregiver(s) from daily stress and care demands. While receiving respite care services, the waiver recipient cannot receive other waiver services which are duplicative in nature because of the absence of persons normally providing non-paid care.~~ Respite care services provided under this waiver will not include room and board payments. Respite care services are limited to recipients who reside with non-paid caregivers. ~~(7-1-95)~~(11-1-99)T

d. Supported employment which is competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work. (7-1-95)

i. Supported employment services rendered under the waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation will be maintained in the file of each individual receiving this service verifying that the service is not otherwise available/funded under the Rehabilitation Act of 1973 as amended, or IDEA; ~~and the waiver participant has been deinstitutionalized from an NF or ICF/MR at some prior period.~~ (7-1-95)(11-1-99)T

ii. Federal Financial Participation (FFP) will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver recipients to encourage or subsidize employers' participation in a supported employment program; payments that are passed through to beneficiaries of supported employment programs; or payments for vocational training that is not directly related to a waiver participant's supported employment program. (7-1-95)

e. Transportation services which are services offered in order to enable waiver recipients to gain access to waiver and other community services and resources required by the individual support plan. This service is offered in addition to medical transportation required under 42 CFR 440.431.53 and transportation services offered under the State plan, defined at 42 CFR 440.170(a), and shall not replace them. Whenever possible, family, neighbors, friends, or community agencies which can provide this service without charge or public transit providers will be utilized. (7-1-95)

f. Environmental modifications which are those interior or exterior physical adaptations to the home, required by the waiver recipient's support plan, which are necessary to ensure the health, welfare, safety of the individual, or which enable the individual to function with greater independence in the home and without which, the waiver recipient would require institutionalization. Such adaptations may include the installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or installation of electric and plumbing systems which are necessary to accommodate the medical equipment and supplies necessary for the welfare of the waiver recipient, but shall exclude those adaptations or improvements to the home which are not of direct medical or remedial benefit to the recipient, such as carpeting, roof repair, or central air conditioning. All services shall be provided in accordance with applicable State or local building codes. Permanent environmental modifications are limited to modifications to a home rented or owned by the recipient or the recipient's family when the home is the recipient's principal residence.

Portable or non-stationary modifications may be made when such modifications can follow the recipient to his next place of residence or be returned to the Department. (7-1-95)

g. Specialized medical equipment and supplies which include devices, controls, or appliances, specified in the Individual Support Plan which enable recipients to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. They also include items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State plan. Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the State plan and shall exclude those items which are not of direct medical or remedial benefit to the recipient. All items shall meet applicable standards of manufacture, design and installation. (7-1-95)

h. Personal Emergency Response Systems (PERS) which may be provided to monitor waiver recipient safety and/or provide access to emergency crisis intervention for emotional, medical or environmental emergencies through the provision of communication connection systems. PERS are limited to recipients who rent or own their home, who are alone for significant parts of the day, have no regular caretaker for extended periods of time and who would otherwise require extensive routine supervision. (7-1-95)

i. Home delivered meals which are designed to promote adequate wavier recipient nutrition through the provision and home delivery of one (1) to two (2) meals per day. Home delivered meals are limited to recipients who rent or own their own home, who are alone for significant parts of the day and have no regular caretaker for extended periods of time. (7-1-97)

j. Therapy services under the waiver include physical therapy services; occupational therapy services; and speech, hearing and language services. These services are to be available through the waiver when the need for such services exceeds the therapy limitations under the State plan. Under the waiver, therapy services will include: (7-1-97)

i. Services provided in the waiver recipient's residence, day habilitation site, or supported employment site; (7-1-95)

ii. Consultation with other service providers and family members; (7-1-95)

iii. Participation on the recipient's Individual Support Plan team. (7-1-97)

k. Nursing services are those intermittent nursing services or private duty nursing services which provide individual and continuous care listed in the Individual Support Plan which are within the scope of the Nurse Practice Act and are provided by a licensed registered nurse or licensed practical nurse under the supervision of a registered nurse, licensed to practice in Idaho. (7-1-95)

l. Behavior Consultation/Crisis Management services which provide direct consultation and clinical evaluation of recipients who are currently experiencing or may be expected to experience, a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a recipient. These services also provide emergency back-up involving the direct support of the recipient in crisis. (7-1-97)

m. Adult day care is a supervised, structured day program, outside the home of the participant that offer one (1) or more of a variety of social, recreational, health activities, supervision for safety, and assistance with activities of daily living. (11-1-99)T

i. Facilities, which provide adult day care must be, maintained in a safe an sanitary manner. Facilities will provide the necessary space and staff to meet the needs of the participants accepted by the provider. Supervision must be provided by the facility as necessary, to assure the safety and comfort of participants served. (11-1-99)T

ii. Providers accepting participants into their homes for services must maintain the home in a safe and sanitary manner. Supervision must be provided by the provider as necessary to assure the safety and comfort of participants served. (11-1-99)T

02. Place Of Service Delivery. Waiver services for developmentally disabled recipients may be provided in the recipient's personal residence, specialized family home, waiver facilities, day habilitation/supported employment program or community. The following living situations are specifically excluded as a personal residence for the purpose of these rules: (7-1-95)

- a. Licensed skilled, or intermediate care facilities, certified nursing facility (NF) or hospital; and (7-1-95)
- b. Licensed Intermediate Care Facility for the Mentally Retarded (ICF/MR); and (7-1-95)
- c. Licensed Residential ~~Care~~ and Assisted Living Facility. (~~7-1-95~~)(11-1-99)T
- ~~d. Adult foster homes.~~ (~~7-1-95~~)
- ed. Additional limitations to specific services are listed under that service definition. (7-1-95)

03. Services Delivered Following A Written Plan. All waiver services must be authorized by the ACCESS Unit in the Region where the recipient will be residing and provided based on a written Individual Support Plan (ISP). (7-1-95)

- a. The ISP is developed by the ISP team which includes: (7-1-95)
 - i. The waiver recipient. Efforts must be made to maximize the recipient's participation on the team by providing him with information and education regarding his rights; and (7-1-95)
 - ii. The service coordinator chosen by the recipient; and (7-1-95)
 - iii. The guardian when appropriate; and (7-1-95)
 - iv. May include others identified by the waiver recipient. (7-1-95)
- b. The ISP must be based on a person centered planning and assessment process approved by the Department. (7-1-95)
- c. The ISP must include the following: (7-1-95)
 - i. The specific types, amounts, frequency and duration of Medicaid reimbursed waiver services to be provided; and (7-1-95)
 - ii. Supports and service needs that are to be met by the recipient's family, friends and other community services; and (7-1-95)
 - iii. The providers of waiver services when known; and (7-1-95)
 - iv. Documentation that the recipient has been given a choice between waiver services and institutional placement; and (7-1-95)
 - v. The signature of the recipient or his legal representative and the service coordinator. (7-1-95)
- d. The plan must be ~~revised and updated~~ reviewed monthly by the ISP team ~~revisions and updates are made~~ based upon treatment results or a change in the recipient's needs, ~~but at least semi-annually~~. A new plan must be developed and approved annually. (~~7-1-95~~)(11-1-99)T

04. Authorization Of Services. All services reimbursed under the Home and Community Based Waiver for Developmentally Disabled must be authorized prior to the payment of services by the Regional ACCESS Unit. (7-1-95)

05. Service Supervision. The Individual Support Plan which includes all waiver services is monitored by the service coordinator. (7-1-95)

06. Provider Qualifications. All providers of waiver services must have a valid provider agreement/performance contract with the Department. Performance under this agreement/contract will be monitored by the ACCESS Unit in each region. (7-1-95)

a. Residential Habilitation services must be provided by an agency that is certified as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," that has been certified by the Department and capable of supervising the direct services provided. Independent providers of personal care services that are transferred to providers of residential habilitation services under this waiver shall either work for an agency or affiliate with an agency to provide oversight, training and quality assurance. If there is no agency available in a geographic location, providers of residential habilitation services under this waiver will not be required to work for or affiliate with an agency until one becomes available. Providers of residential habilitation services must meet the following requirements: (7-1-97)

i. Direct service staff must meet the following minimum qualifications: be at least eighteen (18) years of age; be a high school graduate or have a GED or demonstrate the ability to provide services according to an Individual Support Plan; have current CPR and First Aid certifications; be free from communicable diseases; pass a criminal background check (when residential habilitation services are provided in a specialized family home, all adults living in the home must pass a ~~eCriminal History background eCheck~~); participate in an orientation program, including the purpose and philosophy of services, service rules, policies and procedures, proper conduct in relating to waiver participants, and handling of confidential and emergency situations that involve the waiver participant, provided by the agency prior to performing services; have appropriate certification or licensure if required to perform tasks which require certification or licensure. (7-1-95)

ii. The provider agency will be responsible for providing training specific to the needs of the recipient. Skill training must be provided by a Qualified Mental Retardation Professional who has demonstrated experience in writing skill training programs. Additional training requirements must include at a minimum: instructional technology; behavior technology; feeding; communication/sign language; mobility; assistance with medications (training in assistance with medications must be provided by a licensed nurse); activities of daily living; body mechanics and lifting techniques; housekeeping techniques and maintenance of a clean, safe, and healthy environment. (7-1-95)(11-1-99)T

iii. Residential habilitation providers who are unable to join or affiliate with an agency because one is not available in their geographic area, must receive program development, implementation and oversight of service delivery services by a Qualified Mental Retardation Professional (QMRP) who has a valid provider agreement with the Department. (7-1-95)

iv.i. When residential habilitation services are provided in the provider's home, the agency or independent provider must meet the environmental sanitation standards; fire and life safety standards; and building, construction and physical home standards for certification as an Adult Foster Home. Non-compliance with the above standards will be cause for termination of the provider's provider agreement/contract. (7-1-95)

b. Providers of chore services must meet the following minimum qualifications: (7-1-95)

i. Be skilled in the type of service to be provided; and (7-1-95)

ii. Demonstrate the ability to provide services according to an individual support plan. (7-1-95)

c. Providers of respite care services must meet the following minimum qualifications: (7-1-95)

i. Meet the qualifications prescribed for the type of services to be rendered, for instance Residential Habilitation providers, or must be an individual selected by the waiver participant and/or the family or guardian; and (7-1-95)

- ii. Have received caregiving instructions in the needs of the person who will be provided the service; and (7-1-95)
- iii. Demonstrate the ability to provide services according to an individual support plan; and (7-1-95)
- iv. Have good communication and interpersonal skills and the ability to deal effectively, assertively and cooperatively with a variety of people; and (7-1-95)
- v. Be willing to accept training and supervision by a provider agency or the primary caregiver of services; and (7-1-95)
- vi. Be free of communicable diseases. (7-1-95)
- d. Supported Employment services must be provided by an agency capable of supervising the direct service and be accredited by the Commission on Accreditation of Rehabilitation Facilities; or other comparable standards; or meet State requirements to be a State approved provider (7-1-95)
- e. Providers of transportation services must: (7-1-95)
 - i. Possess a valid driver's license; and (7-1-95)
 - ii. Possess valid vehicle insurance. (7-1-95)
- f. Environmental Modifications services must: (7-1-95)
 - i. Be done under a permit, if required; and (7-1-95)
 - ii. Demonstrate that all modifications, improvements, or repairs are made in accordance with local and state housing and building codes. (7-1-95)
- g. Specialized Equipment and Supplies purchased under this service must: (7-1-95)
 - i. Meet Underwriter's Laboratory, FDA, or Federal Communication Commission standards where applicable; and (7-1-95)
 - ii. Be obtained or provided by authorized dealers of the specific product where applicable. For instance, medical supply businesses or organizations that specialize in the design of the equipment. (7-1-95)
- h. Personal Emergency Response Systems must demonstrate that the devices installed in waiver participants' homes meet Federal Communications Standards or Underwriter's Laboratory standards or equivalent standards. (7-1-95)
 - i. Services of Home Delivered Meals under this section may only be provided by an agency capable of supervising the direct service and must: (7-1-95)
 - i. Provide assurances that each meal meets one third (1/3) of the Recommended Dietary Allowance as defined by the Food and Nutrition Board of National Research Council or meet physician ordered individualized therapeutic diet requirement; and (7-1-97)
 - ii. Maintain Registered Dietitian documented review and approval of menus, menu cycles and any changes or substitutes; and (7-1-95)
 - iii. Must provide assurances that the meals are delivered on time and demonstrate the ability to deliver meals at a minimum of three (3) days per week; and (7-1-97)
 - iv. Maintain documentation reflecting the meals delivered are nutritionally balanced and made from the highest U.S.D.A. Grade for each specific food served; and (7-1-95)

- v. Provide documentation of current driver's license for each driver; and (7-1-95)
- vi. Must be inspected and licensed as a food establishment by the District Health Department. (7-1-95)
- j. All therapy services, with the exception of physical therapy, must be provided by a provider agency capable of supervising the direct service. Providers of services must meet the provider qualifications listed in the State Plan. (7-1-95)
- k. Nursing Service Providers must provide documentation of current Idaho licensure as a RN or LPN in good standing. (7-1-95)
- l. Behavior Consultation/Crisis Management Providers must meet the following: (7-1-95)
 - i. Work for a provider agency capable of supervising the direct service or work under the direct supervision of a licensed psychologist or Ph.D. in Special Education, with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (7-1-95)
 - ii. Must have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, special education or a closely related course of study; or (7-1-95)
 - iii. Be a licensed pharmacist; or (7-1-95)
 - iv. Be a Qualified Mental Retardation Professional. (7-1-97)
 - v. Emergency back-up providers must meet the minimum provider qualifications under Residential Habilitation services. (7-1-95)
- m. Providers of adult day care services must meet the following minimum qualifications: (11-1-99)T
 - i. Demonstrate the ability to communicate and deal effectively, assertively, and cooperatively with a variety of people; (11-1-99)T
 - ii. Be a high school graduate, or have a GED or demonstrate the ability to provide services according to the Individual Support Plan; (11-1-99)T
 - iii. Be free from communicable disease; (11-1-99)T
 - iv. Pass a Criminal History Check; (11-1-99)T
 - v. Demonstrate knowledge of infection control methods; and (11-1-99)T
 - vi. Agree to practice confidentiality in handling situations that involve waiver participants. (11-1-99)T
- 07. Recipient Eligibility Determination.** Waiver eligibility will be determined by the Regional ACCESS Unit. The recipient must be financially eligible for MA as described in IDAPA 16.03.05, Section 634787, "Rules Governing Eligibility for Aid for the Aged, Blind, and Disabled (AABD)". The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, waiver recipients must meet the following requirements: ~~(7-1-97)~~(11-1-99)T
 - a. Recipient must be eighteen (18) years of age or older. (11-1-99)T
 - ab. The Regional ACCESS Unit must determine that: (7-1-95)
 - i. The recipient would qualify for ICF/MR level of care as set forth in Section 180 of these rules, if the waiver services listed in Section 143 of these rules were not made available; and (7-1-95)

ii. The recipient could be safely and effectively maintained in the requested/chosen community residence with appropriate waiver services. This determination must be made by a team of individuals with input from the ISP team; and prior to any denial of services on this basis, be determined by the Service Coordinator that services to correct the concerns of the team are not available. (7-1-95)

iii. The average daily cost of waiver services and other medical services to the recipient would not exceed the average daily cost to Medicaid of ICF/MR care and other medical costs. Individual recipients whose cost of services exceeds this average may be approved on a case by case basis that assures that the average per capita expenditures under the waiver do not exceed one hundred percent (100%) of the average per capita expenditures for ICF/MR care under the State plan that would have been made in that fiscal year had the waiver not been granted. This approval will be made by a team identified by the Administrators of the Divisions of Medicaid and Family and Community Services. (7-1-97)

iv. Following the approval by the ACCESS Unit for services under the waiver, the recipient must receive and continue to receive a waiver service as described in these rules. A recipient who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (7-1-95)

bc. A recipient who is determined by the ACCESS Unit to be eligible for services under the Home and Community Based Services Waiver for developmentally disabled may elect to not utilize waiver services but may choose admission to an ICF/MR. (7-1-95)

ed. The recipient's eligibility examiner will process the application in accordance with IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)," as if the application was for admission to an ICF/MR, except that the eligibility examiner will forward potentially eligible applications immediately to the ACCESS Unit for review. The Medicaid application process cited above conforms to all statutory and regulatory requirements relating to the Medicaid application process. ~~(7-1-97)~~(11-1-99)T

de. The decisions of the ACCESS Unit regarding the acceptance of the recipients into the waiver program will be transmitted to the eligibility examiner. (7-1-95)

08. Case Redetermination. (7-1-95)

a. Financial redetermination will be conducted pursuant to IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children," and IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)". Medical redetermination will be made at least annually by the ACCESS Unit, or sooner at the request of the recipient, the eligibility examiner, provider agency or physician. The sections cited implement and are in accordance with Idaho's approved state plan with the exception of deeming of income provisions. ~~(7-1-97)~~(11-1-99)T

b. The redetermination process will assess the following factors: (7-1-95)

i. The recipient's continued need for waiver services; and (7-1-95)

ii. Discharge from the waiver services program. (7-1-97)

09. Provider Reimbursement. (7-1-95)

a. Waiver service providers will be paid on a fee for service basis based on the type of service provided as established by the Department. (7-1-95)

b. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (7-1-95)

c. The fees calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the recipient's home or other service delivery location when the recipient is not being provided transportation. (7-1-95)

10. Provider Records. Three (3) types of record information will be maintained on all recipients receiving waiver services: (7-1-97)

a. Direct Service Provider Information which includes written documentation of each visit made or service provided to the recipient, and will record at a minimum the following information: (7-1-95)

i. Date and time of visit; and (7-1-95)

ii. Services provided during the visit; and (7-1-95)

iii. A statement of the recipient's response to the service, if appropriate to the service provided, including any changes in the recipient's condition; and (7-1-95)

iv. Length of visit, including time in and time out, if appropriate to the service provided. Unless the recipient is determined by the Service Coordinator to be unable to do so, the delivery will be verified by the recipient as evidenced by their signature on the service record. (7-1-95)

v. A copy of the above information will be maintained in the recipient's home unless authorized to be kept elsewhere by the ACCESS Unit. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-97)

b. The individual support plan which is initiated by the ACCESS Unit and developed by the Service Coordinator and the ISP team must specify which waiver services are required by the recipient. The plan will contain all elements required by Subsection 143.03 and a copy of the most current individual support plan will be maintained in the recipient's home and will be available to all service providers and the Department. (7-1-95)

c. In addition to the individual support plan, at least monthly the service coordinator will verify in writing, that the services provided were consistent with the individual support plan. Any changes in the plan will be documented and include the signature of the service coordinator and when possible, the recipient. (7-1-95)

11. Provider Responsibility For Notification. It is the responsibility of the service provider to notify the service coordinator when any significant changes in the recipient's condition are noted during service delivery. Such notification will be documented in the service record. (7-1-95)

12. Records Maintenance. In order to provide continuity of services, when a recipient is transferred among service providers, or when a recipient changes service coordinators, all of the foregoing recipient records will be delivered to and held by the Regional ACCESS Unit until a replacement service provider or service coordinator assumes the case. When a recipient leaves the waiver services program, the records will be retained by the Regional ACCESS Unit as part of the recipient's closed case record. Provider agencies will be responsible to retain their client's records for three (3) years following the date of service. (7-1-97)

13. Home And Community-Based Waiver Recipient Limitations. The number of Medicaid recipients to receive waiver services under the home and community based waiver for developmentally disabled recipients will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after September 30 of each new waiver year. The earliest effective date of waiver service delivery for these recipients will be October 1 of each new waiver year. (7-1-97)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9909
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

1) The Balanced Budget Act of 1997 requires that all 1915(b) waivers entered into or renewed after October 1, 1997 implement the prudent lay-person definition of an emergency medical condition. We are currently renewing our Healthy Connections (1915(b) waiver and are required to change our definition.

2) We have been requested to add Personal Care Services Case Management to our list of services exempt from the Healthy Connections referral requirement. This has been justified by the fact that an extensive review for medical necessity is already being done by the Regional Medicaid Units. This confers a benefit to the Medicaid population by removing one layer of review required to obtain a service.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Pam Mason at (208) 364-1837.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 18th day of August, 1999.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9909

014. COORDINATED CARE.

01. Establishment. The Department may, in its discretion, and in consultation with local communities, organize and develop area specific plans as part of a coordinated care program. (6-1-94)

a. Flexibility. Since community needs and resources differ from area to area, the Department will maintain the flexibility to design plans which are consistent with local needs and resources. (6-1-94)

b. Waiver Programs. Plans may be either voluntary, or mandatory pursuant to waiver(s) granted by the Health Care Financing Administration. Some plans may start as voluntary and subsequently become mandatory. (6-1-94)

c. Models. It is anticipated that coordinated care will be accomplished principally through primary care case management. However, capitated plans may also be utilized. (6-1-94)

d. Purpose. The purposes of coordinated care are to: (6-1-94)

i. Ensure needed access to health care; (6-1-94)

ii. Provide health education; (6-1-94)

iii. Promote continuity of care; (6-1-94)

iv. Strengthen the patient/physician relationship; and (6-1-94)

v. Achieve cost efficiencies. (6-1-94)

02. Definitions. For purposes of this section, unless the context clearly requires otherwise, the following words and terms shall have the following meanings: (6-1-94)

a. "Clinic" means two (2) or more qualified medical professionals who provide services jointly through an organization for which an individual is given authority to act on its behalf. It also includes Federally Qualified Health Centers (FQHCs) and Certified Rural Health Clinics. (6-1-94)

b. "Coordinated care" is the provision of health care services through a single point of entry for the purposes of managing patient care with an emphasis on preventative and primary care and reducing inappropriate utilization of services and resulting costs. This is sometimes referred to as "managed care". (6-1-94)

c. "Covered services" means those medical services and supplies for which reimbursement is available under the state plan. (6-1-94)

d. "Emergency care" means the immediate services required for the treatment of an emergency medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) for which a delay in treatment could reasonably be expected by a prudent layperson to result in death or permanent impairment of health placing the patient's health in serious jeopardy, serious impairment to bodily functions, serious dysfunction of any bodily organ or part, or active labor. ~~(6-1-94)~~(10-1-99)T

e. "Grievance" means the formal process by which problems and complaints related to coordinated care are addressed and resolved. Grievance decisions may be appealed as provided herein. (6-1-94)

f. "Non-exempt services" means those covered services which require a referral from the primary care provider. It includes all services except those that are specifically exempted. (6-1-94)

g. "Outside services" means non-exempt covered services provided by other than the primary care provider. (6-1-94)

h. "Patient/recipient" means any patient who is eligible for medical assistance and for which a provider seeks reimbursement from the Department. (6-1-94)

i. "Plan" means the area specific provisions, requirements and procedures related to the coordinated care program. (6-1-94)

j. "Primary care case management" means the process in which a physician is responsible for direct care of a patient, and for coordinating and controlling access to or initiating and/or supervising other health care services needed by the patient. (6-1-94)

k. "Qualified medical professional" means a duly licensed physician in the following specialties: Pediatrics, Internal Medicine, Family Practice, General Practice, General Surgery, Obstetrics/Gynecology, or a physician in any other specialty who chooses to assume the function of primary care case management. It also includes nurse practitioners, and physician assistants. Licenses must be held in the state(s) where services are being rendered. (6-1-94)

l. "Referral" means the process by which patient/recipients gain access to non-exempt covered services not provided by the primary care provider. It is the authorization for non-exempt outside services. (6-1-94)

m. "Waiver" means the authorization obtained from the Health Care Financing Administration to impose various mandatory requirements related to coordinated care as provided in Sections 1915(b) and 1115 of the Social Security Act. (6-1-94)

n. "Prudent layperson" means a person who possesses an average knowledge of health and medicine. (10-1-99)T

03. Primary Care Case Management. Under this model of coordinated care, each patient/recipient obtains medical services through a single primary care provider. This provider either provides the needed service, or arranges for non-exempt services by referral. This management function neither reduces nor expands the scope of covered services. (6-1-94)

a. Referrals. The primary care provider is responsible for making all reasonable efforts to monitor and manage the patient/recipient's care, providing primary care services, and making referrals for outside services when medically necessary. All outside services not specifically exempted require a referral. Outside services provided without a referral will not be paid. All referrals shall be documented in recipient's patient record. (6-1-94)

b. Exempted Services. All services are subject to primary care case management unless specifically exempted. The following services are exempt: family planning services, emergency care (as defined by the Department for the purpose of payment and performed in an emergency department), dental care (performed in the office), Podiatry (performed in the office), Audiology (hearing tests/screening, does not include ear/nose/throat services), Optical/Ophthalmology/Optomtrist services (performed in the office), chiropractic (performed in the office), pharmacy (prescription drugs only), nursing home, ICF/MR services, childhood immunizations (not requiring an office visit), flu shots and/or pneumococcal vaccine (not requiring an office visit), diagnosis and/or treatment for sexually transmitted diseases, one screening mammography per calendar year for women age forty (40) or older, and Indian Health Clinic/638 Clinic services provided to individuals eligible for Indian Health Services, and in-home services known as Personal Care Services and Personal Care Services Case Management. The Department may change the services that require a referral after appropriate notification of Medicaid eligible individuals and providers. (7-1-99)(10-1-99)T

04. Participation. (6-1-94)

a. Provider Participation. (6-1-94)

i. Qualifications. Primary care case management services may be provided by qualified medical

professionals, licensed to practice in the state where services are being rendered. (6-1-94)

ii. Conditions and Restrictions. (6-1-94)

(1) Quality of Services. Provider shall maintain and provide services in accordance with community standards of care. Provider shall exercise his/her best efforts to effectively control utilization of services. Providers must provide twenty-four (24) hour coverage by telephone to assure patient/recipient access to services. (6-1-94)

(2) Provider Agreements. Providers participating in primary care case management must sign an agreement. Clinics may sign an agreement on behalf of their qualified medical professionals. (6-1-94)

(3) Patient Limits. Providers may limit the number of patient/recipients they wish to manage. Subject to this limit, the provider must accept all patient/recipients who either elect or are assigned to provider, unless disenrolled in accordance with the next Subsection. Providers may change their limit effective the first day of any month by written request thirty (30) days prior to the effective date of change. Requirement maybe waived by the Department. (7-1-99)

(4) Disenrollment. Instances may arise where the provider/patient relationship breaks down due to failure of the patient to follow the plan of care or for other reasons. Accordingly, a provider may choose to withdraw as patient/recipient's primary care provider effective the first day of any month by written notice to the patient/recipient and the Department thirty (30) days prior to the date of withdrawal. This advance notice requirement may be waived by the Department. (6-1-94)

(5) Record Retention. Providers must retain patient and financial records and provide the Department or its agent access to those records for a minimum of five (5) years from the date of service. Upon the reassignment of a patient/recipient to another provider, the provider must transfer (if a request is made) a copy of the patient's medical record to the new provider. Provider must also disclose information required by Subsection 040.01 of this chapter, when applicable. (6-1-94)

(6) Termination or Amendment of Provider Agreements. The Department may terminate a provider's agreement as provided in Subsection 040.03 of this chapter. An agreement may be amended for the same reasons. (6-1-94)

iii. Payment. Providers will be paid a case management fee for primary care case management services in an amount determined by the Department. The fee will be based on the number of patient/recipients enrolled under the provider on the first day of each month. For providers reimbursed based on costs, such as Federally Qualified Health Centers and Rural Health Clinics, the case management fee is considered one hundred percent (100%) of the reasonable costs of an ambulatory service. (6-1-94)

b. Recipient Participation. (6-1-94)

i. Enrollment. (6-1-94)

(1) Voluntary Programs. In voluntary plans, the patient/recipient will be given an opportunity to choose a primary care provider. If the patient/recipient is unable to choose a provider but wishes to participate in the plan, a provider will be assigned by the Department. If a voluntary plan subsequently becomes mandatory, provider selection/assignment will remain unchanged where possible. (6-1-94)

(2) Mandatory Programs. In mandatory plans, a provider will be assigned if the patient/recipient fails to choose a participating provider after given the opportunity to do so. Members of the same family do not have to choose the same provider. All patient/recipients in the plan area are required to participate in the plan unless individually granted an exception. Exceptions from participation in mandatory plans are available for patient/recipients who: (6-1-94)

(a) Have to travel more than thirty (30) miles, or thirty (30) minutes to obtain primary care services; (6-1-94)

- (b) Have an eligibility period that is less than three (3) months; (6-1-94)
- (c) Live in an area excluded from the waiver; (6-1-94)
- (d) Have an eligibility period that is only retroactive; (7-1-99)
- (e) Are eligible only as Qualified Medicare Beneficiary; (7-1-99)
- (f) Have an existing relationship with a primary care physician or clinic who is not participating with the Healthy Connections; or (7-1-99)
- (g) Has incompatible third party liability. (7-1-99)

ii. Changing Providers. If a patient/recipient is dissatisfied with his/her provider, he/she may change providers effective the first day of any month by contacting their designated Healthy Connections Representative to do so no later than fifteen (15) days in advance. This advance notice requirement may be waived by the Department. (7-1-99)

iii. Changing Service Areas. Patient/recipients enrolled in a plan cannot obtain non-exempt services without a referral from their primary care provider. Patient/recipients who move from the area where they are enrolled must disenroll in the same manner as provided in the preceding paragraph for changing providers, and may obtain a referral from their primary care provider pending the transfer. Such referrals are valid not to exceed thirty (30) days. (6-1-94)

05. Problem Resolution. (6-1-94)

a. Intent. To help assure the success of coordinated care, the Department intends to provide a mechanism for timely and personal attention to problems and complaints related to the program. (6-1-94)

b. Local Program Representative. To facilitate problem resolution, each area will have a designated representative who will receive and attempt to resolve all complaints and problems related to the plan and function as a liaison between patient/recipients and providers. It is anticipated that most problems and complaints will be resolved informally at this level. (7-1-99)

c. Registering a Complaint. Both patient/recipients and providers may register a complaint or notify the Department of a problem related to the coordinated care plan either by writing or telephoning the local program representative. The health representative will attempt to resolve conflicts and disputes whenever possible and refer the complainant to alternative forums where appropriate. (7-1-99)

d. Grievance. If a patient/recipient or provider is not satisfied with the resolution of a problem or complaint addressed by the program representative, he may file a formal grievance in writing to the representative. The manager of the managed care program may, where appropriate, refer the matter to a review committee designated by the Department to address issues such as quality of care or medical necessity. However, such decisions are not binding on the Department. The Department will respond in writing to grievances within thirty (30) days of receipt. (7-1-99)

e. Appeal. Decisions in response to grievances may be appealed. Appeals by patient/recipients are considered as fair hearings and appeals by providers as contested cases under the Rules Governing Contested Case Proceedings and Declaratory Rulings, IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings," and must be filed in accordance with the provisions of that chapter. (6-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9910

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective September 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

- 1) Renumbers and reformats rules to make them consistent with Administrative Procedures' recommendations in Rule Drafter's Manual. This process moves 16.03.09.119 to 16.03.09.560 and breaks it into sections 560 through 599.
- 2) Adds clinical nurse practitioner to description of practitioner of the healing arts and physician extender. This makes the description consistent with the State Board of Nursing's definition of those who are licensed and approved by the state to make medical referrals and recommendations. Also terminology was added to references of a "RN" which now states licensed professional nurse (RN). These changes were recommended by the State Board of Nursing to make the language in these rules consistent with State Board of Nursing Rules.
- 3) Adds description to the explanation of transportation services that further clarifies when the service can be provided and parallels clarification in recent Federal guidelines.
- 4) Re-words sections of the rules which have been questioned and found to be lacking in clarity during this past year. Includes: documentation requirements; matching fund requirements; definition of Speech/Language Therapists and Audiologist; and definition of developmental specialist by incorporation by reference to IDAPA 16.04.11."Rules Governing Developmental Disability Agencies".
- 5) Changes record retention requirement to be consistent with requirement.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Lorraine Hutton at (208) 364-1835.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 17th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9910

119. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

551. -- 599. (RESERVED).

49560. HEALTH RELATED SERVICES PROVIDED BY IDAHO PUBLIC SCHOOL DISTRICTS OR OTHER PUBLIC EDUCATIONAL AGENCY (IDAHO INFANT TODDLER PROGRAM).

The Department will pay school districts and other public educational agencies for covered rehabilitative and health related services pursuant to IDAPA 16.03.09, "Rules Governing Medical Assistance," including medical or remedial services provided by school districts or other cooperative service agencies (as defined in Section 33-317, Idaho Code) which have entered into a provider agreement with the Department. Medicaid payment is also contingent upon school districts following current procedural guidelines established by the Department of Health and Welfare, Division of Medicaid for health related services provided by school districts and other public educational agencies.

(7-1-99)(9-1-99)T

04561. RECIPIENT ELIGIBILITY.

To be eligible for medical assistance reimbursement for covered services, a student shall:

(10-22-93)(9-1-99)T

a01. Education Disability. Be identified as having an educational disability pursuant to IDAPA 08.02.03, "Rules Governing Thoroughness," Subsection 100.082.b., Department of Education standards for the education of disabled students or, for children birth to three (3) years of age, being identified as needing early intervention services due to a developmental delay or disability in accordance with the eligibility criteria of the Idaho Infant Toddler Program; and

(7-1-99)(9-1-99)T

b02. Individualized Education Program. Have a current Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) which indicates the need for one (1) or more medically necessary health related services; and lists all Medicaid reimbursable services for which the school district or agency is requesting reimbursement; and

(7-1-99)(9-1-99)T

e03. Age. Be less than twenty-two (22) years of age; and

(10-22-93)(9-1-99)T

e04. Medicaid Eligible. Be eligible for Medicaid and the service for which the school district is seeking reimbursement;

(7-1-99)(9-1-99)T

e05. School District Is Enrolled As A Provider. Be served by a school district or other public educational agency that is an enrolled medical assistance provider pursuant to these rules; and

(7-1-99)(9-1-99)T

f06. Referred By A Physician. Have a recommendation or referral from a physician or other practitioner of the healing arts, such as nurse practitioner, clinical nurse specialist, or physician's assistant, who is

licensed and approved by the state of Idaho to make such recommendations or referrals, for all Medicaid services for which the school district/other educational agency is receiving reimbursement. (7-1-99)(9-1-99)T

02562. EVALUATION AND DIAGNOSTIC SERVICES.

~~a.~~ Evaluations completed shall. (10-22-93)

~~i.~~ ~~Be~~ recommended or referred by a physician or other practitioner, clinical nurse specialist, or physician's assistant, who is licensed and approved by the state of Idaho to make such recommendations or referrals; and shall; (7-1-99)(9-1-99)T

~~ii01.~~ **Conducted By Qualified Professionals.** Be conducted by qualified professionals for the respective discipline as defined in ~~Subsections 119.05.a. through 119.05.n. 569;~~ and (7-1-99)(9-1-99)T

~~iii02.~~ **Directed Toward Diagnosis.** Be directed toward a diagnosis and recommendations for services; and (7-1-99)(9-1-99)T

~~iv03.~~ **Recommend Interventions.** Recommend interventions to address each need. (10-22-93)(9-1-99)T

03563. REIMBURSABLE SERVICES.

Schools ~~Districts~~ Infant Toddler Programs may bill for the following health related services provided to eligible students when provided under the recommendation of a physician or other practitioner of the healing arts; (7-1-99)(9-1-99)T

~~a01.~~ **Annual Plan Development.** Annual IEP or IFSP plan development; (7-1-99)(9-1-99)T

~~b02.~~ **Collateral Contact.** Consultation or treatment direction about the student to a significant other in the student's life. (7-1-99)

~~c03.~~ **Developmental Therapy Evaluation And Treatment.** Assessment, treatment and instruction of the student in the acquisition of developmental milestones and activities of daily living skills that the student has not gained at the normal developmental stages in his or her life, or is not likely to develop without training or therapy beyond age appropriate learning situations. Developmental therapy does not include tutorial activities or assistance with educational tasks associated with educational needs that result from the student's disability; (7-1-99)

~~d04.~~ **Early Periodic Screening, Diagnosis, And Treatment (EPSDT) Services.** Services include age appropriate health history and health screening services; (7-1-99)

~~e05.~~ **Medical Equipment And Supplies.** Includes medical equipment and supplies that are covered under the Idaho Medicaid program; (7-1-99)

~~f06.~~ **Nursing Services.** Includes skilled nursing services that must be provided by a licensed nurse. (7-1-99)

~~g07.~~ **Occupational Therapy Evaluation And Treatment.** Does not include components of occupational therapy that deals with vocational assessment, training or vocational rehabilitation. (7-1-99)

~~h08.~~ **Personal Care Services.** School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements such as basis personal care and grooming; assistance with bladder or bowel requirements; assistance with eating (including feeding); or other tasks delegated by a Registered Nurse ~~as defined in Subsections 146.01.a.i. through 146.01.a.iv. and 146.01.a.(1) through 146.01.a.(6).~~ (7-1-99)(9-1-99)T

~~i09.~~ **Physical Therapy Evaluation And Treatment.** (7-1-99)

~~j10.~~ **Psychological Evaluation And Therapy.** (7-1-99)

~~¶~~**11. Psychosocial Rehabilitation Evaluation And Treatment.** Includes assistance in gaining and utilizing skills necessary to participate in school such as training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, and coping skills. (7-1-99)

~~¶~~**12. Speech/Audiological Evaluation And Treatment.** (7-1-99)

~~¶~~**13. Social History And Evaluation.** (7-1-99)

~~¶~~**14. Transportation Services.** School districts can receive reimbursement for transporting a student when: (7-1-99)

~~i~~**a.** The student requires special transportation assistance such as a wheelchair lift or an attendant when medically necessary for the health/safety of the student; and (7-1-99)

~~b.~~ The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability. (9-1-99)T

~~ii~~**c.** The student requires and receives another Medicaid reimbursable service, other than transportation, on the day that transportation is being provided; and (7-1-99)

~~iii~~**d.** Both the Medicaid covered service and the need for the special transportation are included on the student's IEP or IFSP. (7-1-99)

~~¶~~**15. Interpretive Services.** Interpretive services are those services needed by a student who does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health related service. (7-1-99)

~~i~~**a.** Payment for interpretive services are limited to the specific time that the student is receiving the health related service. (7-1-99)

~~ii~~**b.** Both the Medicaid covered service and the need for interpretive services are included on the student's IEP or IFSP. (7-1-99)

~~iii~~**c.** Interpretive services would not be covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (7-1-99)

~~564. -- 567. (RESERVED).~~

~~04~~**568. EXCLUDED SERVICES.**

The following services are excluded from Medicaid payments to school based programs: (~~40-22-93~~)(9-1-99)T

~~a~~**01. Vocational Services; and** (~~40-22-93~~)(9-1-99)T

~~b~~**02. Educational Services.** Educational services (other than health related services) or education-based costs normally incurred to operate a school and provide an education; ~~and~~ (~~7-1-99~~)(9-1-99)T

~~e~~**03. Recreational Services.** (10-22-93)

~~05~~**569. PROVIDER STAFF QUALIFICATIONS.**

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (~~40-22-93~~)(9-1-99)T

~~a~~**01. Annual IEP Or IFSP Plan Development.** Must include the professionals who completed the evaluations and recommendations for IEP or IFSP services. May only be billed when the IEP or IFSP includes reimbursable health related services. (7-1-99)

~~h02.~~ **Collateral contact.** Contact and direction ~~Must~~ be provided by the appropriate a professional for whom provides the consultation or treatment direction is needed. (7-1-99)(9-1-99)T

~~e03.~~ **Developmental Therapy Evaluation And Treatment.** Must be provided by or under the direction of a developmental specialist. IDAPA 16.03.09, Subsection 569.03, incorporates by reference the full text of the definition of a developmental specialist found as defined in IDAPA 16.04.11, "Rules and Minimum Standards for Governing Developmental Disabilities Centers Agencies". (7-1-99)(9-1-99)T

~~e04.~~ **EPSDT Screens.** May be provided by a physician, physician extender (nurse practitioner, clinical nurse specialist, or physician's assistant), or EPSDT RN screener. (7-1-99)(9-1-99)T

~~e05.~~ **Medical Equipment And Supplies.** ~~May be provided by providers with a DME provider agreement with the Department.~~ (7-1-99)(9-1-99)T

~~f06.~~ **Nursing Services.** Must be provided by a licensed professional nurse (RN) or licensed practical nurse (LPN) licensed to practice in Idaho. (7-1-99)(9-1-99)T

~~g07.~~ **Occupational Therapy Evaluation And Treatment.** Must be provided by or under the supervision of an individual qualified and registered to practice in Idaho. (7-1-99)

~~h08.~~ **Personal Care Services.** Must be provided by a certified nurses aide (CNA) certified by the state of Idaho, a licensed professional nurse (RN) or licensed practical nurse (LPN), licensed by the state of Idaho. When services are provided by a CNA, the CNA must be supervised by a RN. (7-1-99)(9-1-99)T

~~i09.~~ **Physical Therapy Evaluation And Treatment.** Must be provided by an individual qualified and registered to practice in Idaho. (7-1-99)

~~j10.~~ **Psychological Therapy Evaluation And Treatment.** Must be provided by: (7-1-99)

~~ia.~~ A licensed psychiatrist; (7-1-99)

~~ib.~~ Licensed physician; (7-1-99)

~~ic.~~ Licensed psychologist; (7-1-99)

~~id.~~ Psychologist extender registered with the Board of Occupational Licenses; (7-1-99)

~~ie.~~ Certified psychiatric nurse; (7-1-99)

~~if.~~ Certified school psychologist; (7-1-99)

~~ig.~~ Licensed professional counselor with a private practice license; or (7-1-99)

~~ih.~~ Licensed certified social worker. (7-1-99)

~~k11.~~ **Psychosocial Rehabilitation.** Must be provided by: (7-1-99)

~~ia.~~ A licensed psychiatrist; (7-1-99)

~~ib.~~ Licensed physician; (7-1-99)

~~ic.~~ Licensed psychologist; (7-1-99)

~~id.~~ Psychologist extender registered with the Board of Occupational Licenses; (7-1-99)

~~ie.~~ Certified psychiatric nurse; (7-1-99)

- vif. Certified school psychologist; (7-1-99)
- vii.g. Licensed professional counselor with a private practice license; (7-1-99)
- viii.h. Licensed certified social worker; or (7-1-99)
- ix. Psychosocial rehabilitaiton specialist. (7-1-99)

12. Speech/Audiological Therapy Evaluation And Treatment. Must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech Language and Hearing Association (ASHA), ~~or have completed the educational requirements and work experience necessary for the certificate or have completed the academic program and is acquiring supervised work experience to qualify for the certificate~~ who will be eligible for certification within one (1) year of employment. (7-1-99)(9-1-99)T

13. Social History And Evaluation. Must be provided by a registered nurse; psychologist; M.D; or by a person who is licensed and qualified to provide social work in the state of Idaho; ~~a registered nurse; psychologist; or M.D.~~ (7-1-99)(9-1-99)T

14. Transportation. Must be provided by a individual who has a current Idaho driver's license and ~~be covered under a vehicle liability insurance policy~~ that covers passengers for business use. (7-1-99)(9-1-99)T

570. -- 573. (RESERVED).

574. PARAPROFESSIONALS.

Paraprofessionals, such as aides or therapy technicians, may be used by the school to provide developmental therapy; occupational therapy; physical therapy; and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be within the scope of practice of an aide or therapy technician as defined by the scope of practice of the therapy professional. The portions of the treatment plan which can be delegated to the paraprofessional must be identified in the IEP or IFSP. (7-1-99)(9-1-99)T

a01. Student Evaluations. Paraprofessionals shall not conduct student evaluations or establish the IEP or IFSP goals. (7-1-99)(9-1-99)T

b02. Competency Of Paraprofessional. The professional must have assessed the competence of the paraprofessional or aide to perform assigned tasks. (7-1-99)(9-1-99)T

e03. Monthly Orientation. The paraprofessional, on a monthly basis, shall be given orientation and training on the program and procedures to be followed. (10-22-93)(9-1-99)T

d04. Reevaluation. The professional must reevaluate the student and adjust the treatment plan as their individual practice dictates. (10-22-93)(9-1-99)T

e05. Changes In Condition. Any changes in the student's condition not consistent with planned progress or treatment goals necessitates a documented reevaluation by the professional before further treatment is carried out. (10-22-93)(9-1-99)T

f06. Review Of Independent Paraprofessional. If the paraprofessional works independently there shall be a review conducted by the appropriate professional at least once per month. This review will include the dated initials of the professional conducting the review. (10-22-93)(9-1-99)T

g07. Utilizing Paraprofessional To Assist In Provision Of Physical Therapy. In addition to the above, if a paraprofessional is utilized to assist in the provision of actual physical therapy they may do so only when the following conditions are met: (10-22-93)(9-1-99)T

i.a. Student reevaluation must be performed and documented by the supervising PT every five (5) visits or once a week if treatment is performed more than once per day. (10-22-93)

~~h~~**b.** The number of PTAs utilized in any practice or site, shall not exceed twice in number the full time equivalent licensed PTs. (10-22-93)

~~07~~**575. PAYMENT FOR SERVICES.**

Payment for school based health related services must be in accordance with rates established by the Department. (7-1-99)(9-1-99)T

~~a~~**01. Matching Funds.** School districts and the Infant Toddler Program are responsible for certification of the state portion of the Medicaid payment and shall document, as part of their fiscal records, the non-federal funds that have been designated as their certified match. (7-1-99)(9-1-99)T

~~b~~**02. Payment In Full.** Providers of services must accept as payment in full the Department's payment for such services and must not bill Medicaid recipient's for any portion of any charges. (7-1-99)(9-1-99)T

~~e~~**03. Third Party.** Third party payment resources, not to include other school or agency resources, such as private insurance, must be exhausted before the Department is billed for services. Proof of billing other third party payers is required. (7-1-99)(9-1-99)T

~~d~~**04. Contracted Providers.** A contracted provider of the school program may not submit a separate claim to Medicaid as the performing provider for services provided under the school based program and codes. (10-22-93)(9-1-99)T

~~e~~**05. Inpatients In Hospitals Or Nursing Homes.** Payment for school based related services will not be provided to students who are inpatients in nursing homes or hospitals. (10-22-93)(9-1-99)T

~~f~~**06. Recoupment Of Federal Share.** Failure to provide services for which reimbursement has been received or to comply with these rules and procedural guidelines established by the Department, will be cause for recoupment of the Federal share of payments for services, sanctions, or both. (7-1-99)(9-1-99)T

~~g~~**07. Access To Information.** The provider will grant the Department immediate access to all information required to review compliance with these rules. (7-1-99)(9-1-99)T

~~08~~**576. RECORD REQUIREMENTS.**

In addition to the evaluations and maintenance of the Individualized Education Program (IEP) plan or Individualized Family Service Plan (IFSP), the following documentation must be maintained by the provider and retained for a period of ~~two~~ five (25) years: (7-1-99)(9-1-99)T

~~01.~~ **Service Detail Reports.** A service detail report which includes: (9-1-99)T

a. Name of student; (7-1-99)

b. Name and title of the person providing the service; (7-1-99)

c. Date, time, and duration of service; (7-1-99)

d. Place of service. (7-1-99)

~~e~~**02. Activity Record.** An activity record completed at the time the service was provided which describes the service provided and the student's response to the service. (7-1-99)(9-1-99)T

~~f~~**03. One Hundred Twenty Day Review.** A ~~D~~documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual IEP/IFSP; ~~and~~ (10-22-93)(9-1-99)T

~~g~~**04. Documentation Of Qualifications Of Providers.** (10-22-93)

05. Copies Of Required Referrals And Recommendations. Copies of required referrals and recommendations. (9-1-99)T

06. Parental Notification. Documentation that the School District Infant Toddler Program notified the student's parents of the health related services that they intended to bill to Medicaid. Notification must describe the service and state the type, amount, and frequency of the service. (9-1-99)T

09577. COOPERATION OF SERVICES.

Each school district or public educational agency billing for Medicaid services shall act in cooperation with students' parents and with community and/or state agencies and professionals who provide like Medicaid services to the student. (7-1-99)(9-1-99)T

a01. Notification Of Parents. For all students who are receiving Medicaid reimbursed services: ~~the School district/public educational agency~~ Infant Toddler Program shall ensure that parents are notified of the Medicaid services that the school/agency will be submitting for reimbursement in relationship to their child. The school district/public educational agency Infant Toddler Program shall provide the student's parent/guardian with a current copy of the child's IEP or IFSP and any pertinent addendums. The IEP/IFSP ~~or~~ addendum shall describe the Medicaid reimbursable service and list the type, amount and frequency of that service. (7-1-99)(9-1-99)T

b02. Healthy Connection Program. ~~For s~~Students in the Healthy Connection Program: ~~The S~~school districts/public educational agencies Infant Toddler Program shall also provide to the Healthy Connection physician or practitioner of the healing arts a copy of the results of the evaluations that the physician/practitioner ordered, recommended or referred. A copy of the current IEP or IFSP which lists the therapies/services that resulted from the ordered evaluations, and quarterly progress notes for those therapies/services. Evaluations, IEPs or IFSPs, and progress notes shall be provided to the physician within ~~thirty~~ sixty (60) days of completion. (7-1-99)(9-1-99)T

e03. Other Community/State Agencies. ~~For s~~Students who ~~are also receiving~~ receive like Medicaid services through other community and/or state agencies and professionals: Upon receiving a request for a copy of the evaluations or the current IEP or IFSP the school district/public educational agency will furnish the requesting agency or professional a copy of the IEP or IFSP or appropriate evaluation after obtaining consent for release of information from the student's parent/guardian. (7-1-99)(9-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9911

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Necessary changes made to existing rules to clarify qualifications of individuals providing mental health services and physician oversight for protection of the mentally ill individuals of Idaho.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Mary Lou Forbes at (208) 334-5795.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 11th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9911

~~111. (RESERVED).~~

~~113. (RESERVED).~~

111. -- 116. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 499. (RESERVED).

~~112~~450. REHABILITATIVE SERVICES -- MENTAL HEALTH.

Pursuant to 42 CFR 440.130(d), the Department shall purchase rehabilitative services for maximum reduction of mental disability and restoration of the recipient to the best possible functional level. Services shall be provided through the State Mental Health Authority in each region, hereafter referred to as the ~~Community Support Program~~ Psychosocial Rehabilitation (CSPSR), in accordance with Title 39, Chapter 31, Idaho Code, Regional Mental Health Services. Each region shall deliver a range of ~~Community Support Program~~ Psychosocial Rehabilitation (CSPSR) services in their communities including treatment, rehabilitation and supportive services. ~~(7-1-94)~~(10-1-99)T

~~04~~451. RESPONSIBILITIES OF REGIONS.

Each region shall enter into a provider agreement with the Division of Medicaid for CSPSR services and shall be responsible for the following: ~~(7-1-94)~~(10-1-99)T

~~a~~01. Service System. Develop, maintain and coordinate a region-wide, comprehensive and integrated service system of department and other providers. ~~(7-1-94)~~(10-1-99)T

~~b~~02. Service Provision. Provide CSPSR services directly, or through ~~contracts~~ provider agreements with private providers. ~~(7-1-94)~~(10-1-99)T

~~e~~03. Service Availability. Assure provision of CSPSR services to recipients on a twenty-four (24) hour basis. ~~(7-1-94)~~(10-1-99)T

~~e~~04. Intake Assessment. Assure completion of an intake assessment and service plan for each recipient. ~~(7-1-94)~~(10-1-99)T

~~e~~05. Service Authorizations. Provide service authorizations and functions required to administer this section. ~~(7-1-94)~~(10-1-99)T

~~f~~06. Quality Of Services. Monitor the quality of services provided in this section in coordination with the Divisions of Medicaid and Family and Community Services. ~~(7-1-99)~~(10-1-99)T

~~02~~452. SERVICE DESCRIPTIONS.

A CSPSR shall consist of the following services: ~~(7-1-94)~~(10-1-99)T

~~a~~01. Comprehensive Assessment. A comprehensive assessment shall be completed for each recipient of CSPSR services which addresses the recipient's assets, deficits and needs directed towards formulation of a written diagnosis and treatment plan. Assessment is an interactive process with the maximum feasible involvement of the recipient and is directly related to individual's mental illness. The assessment, with supplemental psychiatric, psychological, or specialty evaluations and tests, must be in written form, dated and signed. They must be retained in the recipient's file for documentation purposes. Should the assessment reveal that the person does not need rehabilitative services, appropriate referrals shall be made to meet other needs of the recipient. The assessment is reimbursable if conducted by a qualified provider, in accordance with ~~Subsections 112.04.a. through 112.04.g~~ 454. All the following areas must be evaluated and addressed: ~~(7-1-99)~~(10-1-99)T

~~i~~a. Psychiatric history and current mental status which includes at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the recipient manifests, the recipient's ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to the recipient's current psychiatric status; and (7-1-94)

~~i~~b. Medical history and current medical status which includes at a minimum, history of any major non-

psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current physician; and (7-1-94)

iii.c. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (7-1-94)

iv.d. Financial status which includes at a minimum, adequacy and stability of the recipient's financial status, difficulties the recipient perceives with it, resources available, recipient's ability to manage personal finances; and (7-1-94)

v.e. Social relationships/support which includes, at a minimum, recipient's ability to establish/maintain personal support systems or relationships and recipient's ability to acquire leisure, recreational, or social interests; and (7-1-94)

vi.f. Family status which includes, at a minimum, the recipient's ability or desire to carry out family roles, recipient's perception of the support he receives from his family, and the role the family plays in the recipient's mental illness; and (7-1-94)

vii.g. Basic living skills which includes at a minimum, recipient's ability to meet basic living needs, what the recipient wants to accomplish in this area; and (7-1-94)

viii.h. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, present situation as appropriate to the recipient's needs; and (7-1-94)

ix. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient has in the community, daily living skills necessary for community living. (7-1-94)

b02. Written Service Plan. A written service plan shall be developed and implemented for each recipient of ESPSR services as a vehicle to address the rehabilitative needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family and other support systems. The written service plan shall be developed within thirty (30) calendar days from the date ~~the recipient chooses the agency as his provider of application and be signed by a licensed physician.~~ Case Service planning is reimbursable if conducted by a qualified provider, in accordance with Subsections 442454.041-a through 442454.049-g. Task planning may be done by a qualified provider in accordance with Section 454. The case service plan must include, at a minimum: (1-1-98)(10-1-99)T

ia. A list of focus problems identified during the assessment; and (7-1-94)

ii.b. Concrete, measurable goals to be achieved, including time frames for achievement; and (7-1-94)

iii.c. Specific objectives directed toward the achievement of each one of the goals; and (7-1-94)

iv.d. Documentation of participants in the service planning; the recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient; and (7-1-94)

v.e. Reference to any formal services arranged, including specific providers where applicable; and (7-1-94)

vi.f. Planned frequency of services initiated. (7-1-94)

e03. Psychotherapy. Individual, group and family psychotherapy shall be provided in accordance with the objectives specified in the written service plan. (7-1-94)(10-1-99)T

ia. These services are reimbursable if provided by a qualified professional in accordance with

Subsections ~~112454.041-a.~~ through ~~112454.048.g.~~

~~(7-1-99)~~(10-1-99)T

~~ii.~~ Family psychotherapy must include the recipient and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. (7-1-94)

~~04. Pharmacologic Management.~~ Pharmacologic management services shall be provided in accordance with the service plan. The telephoning of prescriptions to the pharmacy is not a billable service. (7-1-94)

~~i.~~ Medication prescription must be done by a licensed physician or licensed nurse practitioner in direct contact with the recipient. (7-1-94)(10-1-99)T

~~05. Administration Of Medication.~~ Licensed and qualified nursing personnel can supervise, monitor, or administer medications within the limits of the Nurse Practice Act, Section 54-1402 (d), Idaho Code. (7-1-94)

~~iii.~~ Other ~~ESPSR~~ providers, included in ~~Subsection 112.04 454,~~ may assist in "self" administration by verbal prompts and must include assessment of current mental status. (7-1-94)(10-1-99)T

~~06. Individual Psychosocial Rehabilitation.~~ Individual Psychosocial Rehabilitation shall be provided in accordance with the objectives specified in the service plan. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Individual psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for ~~ESPSR~~ services and if the employee is a qualified provider, in accordance with ~~Subsection 112.04 454.~~ This service includes one (1) or more of the following:

~~(7-1-94)~~(10-1-99)T

~~ia.~~ Assistance in gaining and utilizing skills necessary to undertake school or employment. This includes helping the recipient learn personal hygiene and grooming, securing appropriate clothing, time management and other skills related to recipient's psychosocial condition. (7-1-94)

~~ib.~~ Ongoing, on-site assessment/evaluation/feedback sessions to identify symptoms or behaviors and to develop interventions with the recipient and employer or teacher. (7-1-94)

~~ic.~~ Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior directly related to the individuals mental illness. (7-1-94)(10-1-99)T

~~id.~~ Problem solving, support, and supervision related to activities of daily living to assist recipients to gain and utilize skills including, but not limited to, personal hygiene, household tasks, transportation utilization, and money management. (7-1-94)

~~ie.~~ To assist the acquisition of necessary services when recipients are unable to obtain them by escorting them to Medicaid reimbursable appointments. (7-1-94)

~~if.~~ Medication education may be provided by a licensed physician or licensed nurse focusing on educating the recipient about the role and effects of medications in treating symptoms of mental illness. (2-6-95)

~~07. Group Psychosocial Rehabilitation.~~ Group psychosocial rehabilitation shall be provided in accordance with the objectives specified in the service plan. This is a service to two or more individuals, at least one of whom is a recipient. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Group psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for ~~ESPSR~~ services and if the employee is a qualified provider, in accordance with ~~Subsection 112.04 454.~~ This service includes one (1) or more of the following: (7-1-94)(10-1-99)T

~~ia.~~ Medication education groups provided by a licensed physician or licensed nurse focusing on educating recipients about the role and effects of medications in treating symptoms of mental illness. These groups must not be used solely for the purpose of group prescription writing. (7-1-94)

~~ii~~**b.** Employment or school related groups to focus on symptom management on the job or in school, anxiety reduction, and education about appropriate job or school related behaviors. (7-1-94)

~~iii~~**c.** Groups in communication and interpersonal skills, the goals of which are to improve communication skill and facilitate appropriate interpersonal behavior. The client must be present. (7-1-94)(10-1-99)T

~~iv~~**d.** Symptom management groups to identify symptoms of mental illnesses which are barriers to successful community integration, crisis prevention, identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons. (7-1-94)

~~v~~**e.** Groups on activities of daily living which help recipients learn skills related to, but not limited to, personal hygiene and grooming, household tasks, transportation utilization and money management. (7-1-94)

~~g~~**08.** **Community Crisis Support.** Community crisis support which includes intervention for recipients in crisis situations to ensure the health and safety or to prevent hospitalization or incarceration of a recipient. (7-1-94)(10-1-99)T

~~i~~**a.** A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. (7-1-94)

~~ii~~**b.** Community crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service, even if it is not in the service plan. (7-1-94)

~~iii~~**c.** Community crisis support is reimbursable if provided by personnel of the region or an agency contracting with the region for ESPSR services and if the employee is a qualified provider, in accordance with Subsection 12.04 454. (7-1-94)(10-1-99)T

~~03~~**453. EXCLUDED SERVICES.**

~~a~~**01.** **Inpatient.** Treatment services rendered to recipients residing in inpatient medical facilities including nursing homes, ~~or~~ hospitals or correctional facilities. (7-1-94)(10-1-99)T

~~b~~**02.** **Recreational Therapy.** Recreational therapy which includes activities which are primarily social or recreational in nature. (7-1-94)(10-1-99)T

~~e~~**03.** **Employment.** Job-specific interventions, job training and job placement services which includes helping the recipient develop a resume, applying for a job, and job training or coaching. (7-1-94)(10-1-99)T

~~d~~**04.** **Staff Performance.** Staff performance of household tasks and chores. (7-1-94)(10-1-99)T

~~e~~**05.** **Treatment Of Other Individuals.** ~~Targeted Case Management as provided under the state plan.~~ Services for treatment of other individuals, such as family members. (7-1-94)(10-1-99)T

~~06.~~ **Client Staffing Within The Same Agency.** Client staffing within the same agency. (10-1-99)T

~~#~~**07.** **Services Not Listed.** Any other services not listed in Subsection 12.04 452. (7-1-94)(10-1-99)T

~~04~~**454. Community Support PSYCHOSOCIAL REHABILITATION PROGRAM PROVIDER STAFF QUALIFICATIONS.**

All individual providers must be employees of the State Mental Health Authority in each region or employees of an agency contracting with the Department to provide Community Support psychosocial rehabilitation services. Individuals in Subsections 454.08 through 454.11, of these rules, must be supervised by individuals in Subsections 454.01 through 454.07, of these rules. The employing entity shall supervise individual ESPSR providers and assure that the following qualifications are met for each individual provider: (7-1-94)(10-1-99)T

a01. Physician Or Psychiatrist. A physician or psychiatrist shall be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine; ~~(7-1-99)~~(10-1-99)T

b02. Certified Psychiatric Nurse. A certified psychiatric nurse, Clinical Nurse Specialist, or Psychiatric Nurse Practitioner, shall be licensed in accordance with Title 54, Chapter 14, Idaho Code, ~~and be or~~ certified by a recognized national certification organization; ~~(7-1-98)~~(10-1-99)T

e03. Psychologist. A psychologist shall be licensed in accordance with Title 54, Chapter 23, Idaho Code; ~~(7-1-94)~~(10-1-99)T

d04. Psychologist Extender. A psychologist extender who is registered with the Bureau of Occupational Licenses; ~~(7-1-99)~~(10-1-99)T

e05. Clinician. A clinician shall be employed by a state agency and meet the minimum standards established by the ~~Idaho~~ Division of Human Resources and Personnel Commission. ~~(7-1-94)~~(10-1-99)T

#06. Licensed Professional Counselor - Private Practice. A Licensed Professional Counselor -Private Practice Licensure who is licensed in accordance with Section 54-3404(10), Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Counselor Licensing Board," Section 225; ~~(7-1-99)~~(10-1-99)T

g07. Certified Social Worker. A certified social worker or Certified Social Worker, Private/Independent Practice, shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; ~~(7-1-99)~~(10-1-99)T

h08. Social Worker. A social worker shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; ~~(7-1-99)~~(10-1-99)T

i09. Registered Nurse. A registered nurse, R.N., shall be licensed in accordance with Title 54, Chapter 14, Idaho Code. ~~(7-1-99)~~(10-1-99)T

j10. Psychosocial Rehabilitation Specialist. A psychosocial rehabilitation specialist shall hold a bachelor's degree in a behavioral science such as social work, psychology, marriage and family counseling, psychosocial rehabilitation, or a closely related field; ~~(7-1-94)~~(10-1-99)T

k11. Occupational Therapist. An occupational therapist shall be licensed in accordance with Chapter 54, Idaho Code. ~~(7-1-94)~~(10-1-99)T

05455. RECORD REQUIREMENTS.

In addition to the development and maintenance of the treatment plan, the following documentation must be maintained by the provider: ~~(7-1-94)~~

a01. Name. Name of recipient; ~~and~~ ~~(7-1-94)~~(10-1-99)T

b02. Provider. Name of the provider agency and person providing the service; ~~and~~ ~~(7-1-94)~~(10-1-99)T

e03. Date, Time, Duration Of Service, And Justification. Date, time, ~~and~~ duration of service; ~~and~~ duration must be justified by documentation. ~~(7-1-94)~~(10-1-99)T

d04. Activity Record. Activity record describing the recipient ~~and~~ the service provided; ~~and~~ the recipient's response to service. ~~(7-1-94)~~(10-1-99)T

e05. Review Of Progress. Documented review of progress toward each service plan goal and assessment of recipient's need for services at least every one hundred twenty (120) days. ~~(2-6-95)~~(10-1-99)T

06. Physician's Signature. Physician's signature assuring the need for the services and indicating no contradiction to the service plan. ~~(10-1-99)T~~

07. Service Provider's Signature. The legible, dated signature, with degree credentials listed of the

staff member performing the service. (10-1-99)T

06456. PAYMENT FOR SERVICES.

Payment for €SPSR services must be in accordance with rates established by the Department. (~~7-1-94~~)(10-1-99)T

a01. Duplication. Payment for services shall not duplicate payment made to public or private entities under other program authorities for the same purpose. (~~7-1-94~~)(10-1-99)T

b02. Number Of Staff Able To Bill. Only one (1) staff member may bill for an assessment, treatment plan, or case review when multiple €SPSR staff are present. (~~7-4-94~~)(10-1-99)T

e03. Medication Prescription And Administration. Medication prescription and administration may be billed only by physicians and other medical staff qualified under Idaho Code. €SPSR staff shall not be paid for other medical procedures. For example, changing dressings on a wound. (~~7-1-94~~)(10-1-99)T

d04. Recoupment. Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules shall be cause for recoupment of payments for services, sanctions, or both. (~~7-1-94~~)(10-1-99)T

e05. Access To Information. The provider shall provide the Department with access to all information required to review compliance with these rules. (~~7-1-94~~)(10-1-99)T

#06. Evaluations And Tests. Psychiatric or psychological evaluations and tests may be provided as a reimbursable service in conjunction with the assessment. (~~7-1-94~~)(10-1-99)T

g07. Psychological Evaluations. Psychological evaluations are reimbursable if provided by a qualified clinician or psychology extender, in accordance with ~~Subsection 142454.04.d.~~, under the direction of a psychologist, Ph.D. (~~7-1-99~~)(10-1-99)T

h08. Evaluations By Occupational Therapists. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with development of a service plan are reimbursable. (~~7-1-94~~)(10-1-99)T

i09. Inpatient Stays. Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the facility. (~~7-1-94~~)(10-1-99)T

07457. SERVICE LIMITATIONS.

The following service limitations shall apply to €SPSR services, unless otherwise authorized by the State Mental Health Authority in each region. (~~7-1-94~~)(10-1-99)T

a01. Evaluation Or Diagnosis. A combination of any evaluation or diagnostic services are limited to a maximum of six (6) hours annually. (~~7-1-94~~)(10-1-99)T

b02. Psychotherapy. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (~~7-1-94~~)(10-1-99)T

e03. Community Crisis Support. Community crisis support services are limited to a maximum of four (4) hours per day during a period of five (5) consecutive days and must receive prior authorization from the State Mental Health Authority in each region. (~~7-1-94~~)(10-1-99)T

d04. Psychosocial Rehabilitation. Individual and group psychosocial rehabilitation services are limited to twenty (20) hours per week and must receive prior authorization from the State Mental Health Authority in each region. Services in excess of twenty (20) hours require additional review and prior authorization by the State Mental Health Authority in each region. (~~7-1-94~~)(10-1-99)T

458. -- 459. (RESERVED).

4460. CLINIC SERVICES - DIAGNOSTIC SCREENING CLINICS.

The Department will reimburse medical social service visits to clinics which coordinate the treatment between physicians and other medical professionals for recipients which are diagnosed with cerebral palsy, myelomeningitis or other neurological diseases and injuries with comparable outcomes. (4-1-91)

01. Multidisciplinary Assessments And Consultations. The clinic must perform on site multidisciplinary assessments and consultations with each recipient and responsible parent or guardian. Diagnostic and consultive services related to the diagnosis and treatment of the recipient will be provided by board certified physician specialists in physical medicine, neurology and orthopedics. (4-1-91)

02. Billings. No more than five (5) hours of medical social services per recipient may be billed by the specialty clinic each state fiscal year for which the medical social worker monitors and arranges recipient treatments and provides medical information to providers which have agreed to coordinate the care of their patient. (4-1-91)

03. Services Performed. Services performed or arranged by the clinic will be subject to the amount, scope and duration for each service as set forth elsewhere in this chapter. (12-31-91)

04. The Clinic. The clinic is established as a separate and distinct entity from the hospital, physician or other provider practices. (4-1-91)

05. Services Reimbursed. Services performed by a diagnostic and screening clinic will be reimbursed under a fee for service basis as established by Idaho Department of Health and Welfare Rules, IDAPA 16.03.10, Section 406, "Rules Governing Medicaid Provider Reimbursement in Idaho". (12-31-91)

461. -- 464. (RESERVED).

4465. CLINIC SERVICES -- MENTAL HEALTH CLINICS.

Pursuant to 42 CFR 440.90, the Department will pay for preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided by a mental health clinic to a recipient who is not an inpatient in a hospital or nursing home or correctional facility except as specified under Subsection 4469.05.d.a. The mental health clinic must be approved by the Department and be under the direction of a licensed physician. (10-1-99)T

4466. CARE AND SERVICES PROVIDED.

a01. Plan Of Care. Services must be provided specifically in conjunction with a medically ordered plan of care signed by a physician when delivered by licensed, qualified professionals employed full or part-time within a clinic. (10-1-99)T

b02. Assessment. All treatment must be based on an individualized assessment of the patient's needs, and provided under the direction of a licensed physician. (10-1-99)T

c03. Care Plans. All medical care plans must: (10-1-99)T

i.a. Be dated and fully signed with title identification by both the prime therapist(s) and licensed physician; and (11-10-81)

ii.b. Contain the diagnosis documented by an examination and by a licensed physician including physician's signature, problem list, type, frequency, and duration of treatment; and (10-1-99)T

iii.c. Be reviewed and authorized and signed within thirty (30) days of implementation; and (11-10-81)

iv.d. Be reviewed within one hundred twenty (120) days and every one hundred twenty (120) days thereafter; and (11-10-81)

v.e. Be completely rewritten and authorized annually. (11-10-81)

404. Provider Qualifications. Licensed, qualified professionals providing clinic services to eligible MA recipients must have, at a minimum, one (1) or more of the following qualifications: ~~(7-1-99)~~(10-1-99)T

- ~~i~~a. Psychiatrist, M.D.; or (11-10-81)
- ~~ii~~b. Physician, M.D.; or (11-10-81)
- ~~iii~~c. Licensed Psychologist; or (7-1-99)
- ~~iv~~d. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)
- ~~v~~e. Licensed Certified Social Workers, or Licensed Certified Social Workers, Private/Independent Practice; or (7-1-99)
- ~~vi~~f. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (7-1-99)
- ~~vii~~g. Certified Psychiatric Nurse, R.N., as described in Subsection ~~442454.042.b.~~; or ~~(7-1-99)~~(10-1-99)T
- ~~viii~~h. Licensed Social Workers; or (1-1-99)T
- ~~ix~~. Licensed Registered Nurse, R.N.; or (1-1-99)T
- ~~x~~j. Registered Occupational Therapist, O.T.R. (7-1-99)

02467. CARE AND SERVICES NOT COVERED.

a01. Inpatient Medical Facilities. The MA Program will not pay for clinic services rendered to MA recipients residing in in-patient medical facilities including, but not limited to, nursing homes, ~~or~~ hospitals, ~~or~~ correctional facilities; or ~~(11-10-81)~~(10-1-99)T

b02. Scope. Any service or supplies not included as part of the allowable scope of the MA Program; or ~~(11-10-81)~~(10-1-99)T

e03. Non-Qualified Persons. Services provided within the clinic framework by persons other than those qualified to render services as specified in Section ~~44465.~~ ~~(12-31-91)~~(10-1-99)T

03468. EVALUATION AND DIAGNOSTIC SERVICES.

a01. Medical Psychosocial Histories. Medical psychosocial intake histories must be contained in all case files. ~~(11-10-81)~~(10-1-99)T

b02. Diagnosis And Treatment Plan. Information gathered will be used for establishing a recipient data base used in part to formulate the diagnosis and treatment plan. ~~(11-10-81)~~(10-1-99)T

e03. Qualified Therapist. The medical psychosocial intake and plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: ~~(7-1-99)~~(10-1-99)T

- ~~ia~~. Licensed Psychologist; or (7-1-99)
- ~~ib~~. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)
- ~~ic~~. Licensed Certified Social Worker, or Licensed Certified Social Worker, Private/Independent Practice; Licensed Social Worker; or (7-1-99)

- ~~iv~~d. Certified Psychiatric Nurse, R.N.; or (7-1-99)
- ~~v~~e. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (7-1-99)
- ~~vi~~f. Licensed Physician, M.D., or Psychiatrist, M.D.; or (7-1-99)
- ~~vii~~g. Licensed Social Worker (not to include plan development); or (7-1-99)
- ~~viii~~h. Registered Nurse (not to include plan development). (7-1-99)

~~d~~04. **Intake Assessment.** If an individual who is not eligible for MA receives intake services from any staff not having the required degree(s) as provided in Subsection ~~415468.03.e~~, and later becomes eligible for MA, a new intake assessment and treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. ~~(12-31-91)(10-1-99)T~~

~~e~~05. **Non-Qualified Providers.** Any provider of evaluation, diagnostic service, or treatment designed by any person other than a person designated as qualified by these rules, is not eligible for reimbursement under the MA Program. ~~(11-10-81)(10-1-99)T~~

~~f~~06. **Psychiatric Or Psychological Testing.** Psychiatric or psychological testing may be provided in conjunction with the medical psychosocial intake history as a reimbursable service when provided by those persons with qualifications listed in Subsections 469.06.a. through 469.06.d. ~~(11-10-81)(10-1-99)T~~

~~g~~07. **Evaluations Performed By Occupational Therapists.** Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of a medical care treatment plan are reimbursable. ~~(11-10-81)(10-1-99)T~~

~~h~~08. **Documentation.** All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the recipient's file for documentation purposes. ~~(11-10-81)(10-1-99)T~~

~~i~~09. **Data.** All data gathered must be directed towards formulation of a written diagnosis, problem list, and treatment plan which specifies the type, frequency, and anticipated duration of treatment. ~~(11-10-81)(10-1-99)T~~

~~j~~10. **Limitations.** A total of twelve (12) hours is the maximum time allowed for a combination of any evaluative or diagnostic services and care plan development provided to an eligible recipient in a calendar year. ~~(7-1-99)(10-1-99)T~~

~~04469~~. **TREATMENT SERVICES.**

~~a~~01. **Psychotherapy.** Individual and group psychotherapy must be provided in accordance with the goals specified in the written medical treatment plan. ~~(11-10-81)(10-1-99)T~~

~~b~~02. **Family Centered Services.** Family-centered psychosocial services must include at least two (2) family members and must be delivered in accordance with the goals of treatment as specified in the medical treatment plan. ~~(11-10-81)(10-1-99)T~~

~~e~~03. **Emergency Services.** Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. ~~(11-10-81)(10-1-99)T~~

~~ia~~. Emergency services provided to an eligible recipient prior to intake and evaluation is a reimbursable service but must be fully documented in the recipient's record; and (11-10-81)

~~ib~~. Each emergency service will be counted as a unit of service and part of the allowable limit per recipient unless the contact results in hospitalization. (11-10-81)

~~d~~04. **Collateral/Contact Consultation.** Collateral contact may be provided if face to face, and included

on care plan and is necessary to gather information from an individual having a primary relationship to the client.

~~(7-1-99)~~(10-1-99)T

e05. Nursing Facility. Psychotherapy services may be provided to recipients residing in a nursing facility if the following criteria are met: ~~(11-29-91)~~(10-1-99)T

ia. The recipient has been identified through the PASARR Level II screening process as requiring psychotherapy as a specialized service; and (11-29-91)

ib. The service is provided outside the nursing facility at a clinic location ~~or other location where clinic staff is available;~~ and ~~(11-29-91)~~(10-1-99)T

ic. Services provided are: (11-29-91)

~~(1)~~**i.** Supported by the independent evaluations completed and approved by the Mental Health Authority; and (11-29-91)

~~(2)~~**ii.** Incorporated into the recipient's medical care plan; and (11-29-91)

~~(3)~~**iii.** Directed toward the achievement of specific measurable objectives which include target dates for completion. (11-29-91)

f06. Provider Qualifications. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections ~~115469.041-a-~~ through ~~115469.04-d-~~ must have, at a minimum, one (1) or more of the following degrees: ~~(11-29-91)~~(10-1-99)T

ia. Psychiatrist, M.D.; or (11-29-91)

ib. Physician, M.D.; or (11-10-81)

ic. Licensed Psychologist; or (7-1-99)

id. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)

ie. Licensed Certified Social Worker or Licensed Certified Social Worker - Private Practice; or (7-1-99)

if. Licensed Professional Counselor - Private Practice Licensure; or (7-1-99)

ig. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (7-1-99)

ih. Certified Psychiatric Nurse, R.N.; or (7-1-99)

ix. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998. (7-1-99)

g07. Psychotherapy Limitations. Psychotherapy services as set forth in Subsections ~~115469.041-a-~~ through ~~115469.043-e-~~ are limited to forty-five (45) hours per calendar year. ~~(12-31-91)~~(10-1-99)T

h08. Chemotherapy. Chemotherapy consultations must be provided by a physician or licensed nurse practitioner in direct contact with the recipient. ~~(11-10-91)~~(10-1-99)T

ia. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the treatment plan; and (11-10-81)

ib. Chemotherapy treatment can be part of the medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

i09. Nursing Services. Nursing services, when physician ordered and supervised, can be part of the recipient's medical care plan. ~~(11-10-91)~~(10-1-99)T

ia. Licensed and qualified nursing personnel can supervise, monitor, and/or administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and (11-10-81)

ib. Such treatment can be part of the recipient's medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

j10. Partial Care. Partial care services will be a structured program and will be directed toward the maintenance of socio-emotional levels, reduction of psychosocial dysfunctioning, and the promotion of psychosocial levels of functioning insuring the optimal level of function and independence. ~~(11-10-81)~~(10-1-99)T

ia. To qualify as a partial care service, it must include an individual treatment plan based on concrete measurable goals and outcomes. †The service must be offered a minimum of three (3) continuous hours daily, four (4) days per week; and ~~(11-10-81)~~(10-1-99)T

ib. Treatment will be limited to fifty-six (56) hours per week per eligible recipient; and (7-8-90)

ic. Partial care services offered on an extension basis less than this standard are allowable when such services are directly affiliated with a partial care service that meets this standard; and (11-10-81)

id. Partial care services will be part of the recipient's medical care plan which must specify the amount, frequency, and expected duration of treatment; and (11-10-81)

ie. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in Subsection ~~11-5466.014-d.~~ ~~(7-1-99)~~(10-1-99)T

05470. RECORD KEEPING REQUIREMENTS.

a01. Maintenance. Each clinic will be required to maintain records on all services provided to MA recipients. ~~(11-10-91)~~(10-1-99)T

b02. Record Contents. The records must contain a current treatment plan ordered by a physician and must meet the requirements as set forth in Subsection ~~11-5466.013-e.~~ ~~(12-31-91)~~(10-1-99)T

e03. Requirements. The records must: ~~(11-10-91)~~(10-1-99)T

ia. Specify the exact type of treatment provided; and (11-10-81)

ib. Who the treatment was provided by; and (11-10-81)

ic. Specify the duration of the treatment; and (11-10-81)

id. Contain detailed records which outline exactly what occurred during the therapy session or recipient contact; and (11-10-81)

ie. Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (11-10-81)

e04. Non-Reimbursable. Any service not adequately documented in the recipient's record by the signature of the therapist providing the therapy or recipient contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department. ~~(11-10-91)~~(10-1-99)T

e05. Non-Eligible Providers. Any treatment or contact provided as a result of a treatment plan performed by any staff other than as set forth herein will not be eligible for reimbursement by the Department. ~~(11-10-91)~~(10-1-99)T

~~¶06.~~ **Recoupment.** If a record is determined not to meet minimum requirements as set forth herein any payments made on behalf of the recipient are subject to recoupment regardless of prior authorization.

~~(11-10-91)(10-1-99)T~~

~~06471.~~ **PAYMENT PROCEDURES.**

~~¶01.~~ **Services.** Payment for clinic services will be made directly to the clinic and will be in accordance with rates established by the Department for the specific services.

~~(11-10-91)(10-1-99)T~~

~~¶02.~~ **Payment In Full.** Each provider of clinic services must accept the Department's payment for such services as payment in full and must not bill the MA recipient for any portion of any charges incurred for the cost of his care.

~~(11-10-91)(10-1-99)T~~

~~¶03.~~ **Third Party.** All available third party payment resources, such as Medicare and private insurance, must be exhausted before the Department is billed for services provided to an eligible recipient. Proof of billing other third party payers will be required by the Department.

~~(11-10-91)(10-1-99)T~~

~~¶04.~~ **Injections.** Payment for the administration of injections must be in accordance with rates established by the Department.

~~(11-10-91)(10-1-99)T~~

~~472. -- 475.~~ **(RESERVED).**

~~116476.~~ **TARGETED CASE MANAGEMENT FOR THE MENTALLY ILL.**

The Department will purchase case management (CM) services for adult Medicaid recipients with severe disabling mental illness. Services will be provided by an organized provider agency which has entered into a provider agreement with the Department. The purpose of these services is to assist eligible individuals to gain access to needed medical, social, educational, mental health and other services. These services must be ordered by a licensed physician.

~~(8-1-92)(10-1-99)T~~

~~04477.~~ **ELIGIBLE TARGET GROUP.**

Only those individuals who are mentally ill and eighteen (18) years of age or older who are ~~at risk of~~ using high cost medical services associated with frequent exacerbations of mental illness are eligible for CM services.

~~(8-1-92)(10-1-99)T~~

~~¶01.~~ **Diagnostic And Functional Criteria.** The following diagnostic and functional criteria will be applied to determine membership in this target population:

~~(8-1-92)(10-1-99)T~~

~~ia.~~ **Diagnosis:** A condition of severe and persistent mental illness determined by a licensed physician and be a diagnosis listed in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (DSM-~~III-R~~IV) within one (1) of the following classification codes for:

~~(8-1-92)(10-1-99)T~~

~~(1)i.~~ Schizophrenia ~~–295.1, .2, .3, .6, and .9~~ and Other Psychotic Disorders; ~~(8-1-92)(10-1-99)T~~

~~(2)ii.~~ Organic mental disorders associated with Axis III physical disorders or conditions, or whose etiology is unknown ~~–293.00, 293.81, 293.82, 293.83, 294.00, 294.10, 294.80, 310.10;~~ ~~(8-1-92)(10-1-99)T~~

~~(3)iii.~~ Affective Mood disorders ~~–296.2, 296.3, 296.4, 296.5, 296.6, 296.7, 300.4, 301.13, 311.0;~~ ~~(8-1-92)(10-1-99)T~~

~~(4)~~ Delusional disorder ~~–297.1;~~ ~~(8-1-92)~~

~~(5)~~ Other psychotic disorders ~~–295.4, 295.7, 297.3, 298.8 and 298.9;~~ ~~(8-1-92)~~

~~(6)iv.~~ Schizoid, Schizotypal, Paranoid, and Borderline Personality ~~d~~Disorders - 301.00, 301.22, 301.83. ~~(8-1-92)(10-1-99)T~~

~~(7)~~v. If the only diagnosis is one (1) or more of the following, the person is not included in the target population for CM services: (8-1-92)

~~(a)~~1. Mental retardation; or (8-1-92)

~~(b)~~2. Alcoholism; or (8-1-92)

~~(c)~~3. Drug abuse. (8-1-92)

~~ii~~b. Functional limitations: The psychiatric disorder must be of sufficient severity to cause a disturbance in the role performance or coping skills in at least two (2) of the following areas, on either a continuous (more than once per year) or an intermittent (at least once per year) basis: (8-1-92)

~~(1)~~i. Vocational or academic: Is unemployed, unable to work or attend school, is employed in a sheltered setting or supportive work situation, or has markedly limited skills and a poor work history. (8-1-92)

~~(2)~~ii. Financial: Requires public financial assistance for out-of-hospital maintenance and may be unable to procure such assistance without help, or the person is unable to support him or manage his finances without assistance. (8-1-92)

~~(3)~~iii. Social/interpersonal: Has difficulty in establishing or maintaining a personal social support system, has become isolated, has no friends or peer group and may have lost or failed to acquire the capacity to pursue recreational or social interests. (8-1-92)

~~(4)~~iv. Family: Is unable to carry out usual roles and functions in a family, such as spouse, parent, or child, or faces gross familial disruption or imminent exclusion from the family. (8-1-92)

~~(5)~~v. Basic living skills: Requires help in basic living skills, such as hygiene, food preparation, or other activities of daily living, or is gravely disabled and unable to meet daily living requirements. (8-1-92)

~~(6)~~vi. Housing: Has lost or is at risk of losing his current residence. (8-1-92)

~~(7)~~vii. Community: Exhibits inappropriate social behavior or otherwise causes a public disturbance due to poor judgment, bizarre, or intrusive behavior which results in intervention by law enforcement and/or the judicial system. (8-1-92)

~~(8)~~viii. Health: Requires substantial assistance in maintaining physical health or in adhering to medically rigid prescribed treatment regimens, e.g. brittle diabetic. ~~(8-1-92)~~(10-1-99)T

~~b~~02. **Recipient's Residence.** Recipients may reside in adult foster care, residential care, semi-independent living, room and board or their own homes. ~~(8-1-92)~~(10-1-99)T

~~e~~03. **Other Services.** Recipients may be receiving homemaker, personal care, home health, respite or other services. ~~(8-1-92)~~(10-1-99)T

~~d~~04. **Hospice Services.** Recipients who elect hospice services as found in Section 104, or are receiving case management services through another program are excluded from CM services. ~~(8-1-92)~~(10-1-99)T

~~02~~478. **SERVICES DESCRIPTIONS.**

CM services shall be designed to foster independence and be delivered by eligible providers to assist the Medicaid recipient to obtain and coordinate needed health, educational, vocational and social services in the least restrictive, most appropriate and most cost-effective setting. CM services shall consist of the following core functions: ~~(8-1-92)~~(10-1-99)T

~~a~~01. **Assessment.** A CM provider must have the capacity to perform written comprehensive assessments of a person's assets, deficits and needs. Assessment is an interactive process with the maximum feasible involvement of the recipient. Should the assessments reveal that the person does not need CM services, appropriate

referrals will be made to meet other needs of the participant. All the following areas must be evaluated and addressed:
(~~8-1-92~~)(10-1-99)T

ia. Psychiatric history and current mental status: Includes but is not limited to age of onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the client manifests, is the client able to identify his symptoms, medication history; substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to their current psychiatric status; and (10-22-93)

iib. Medical history and current medical status: Includes but is not limited to history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications; name of current physician; and (10-22-93)

iiic. Vocational status: Includes but is not limited to current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (10-22-93)

ivd. Financial status: Includes but is not limited to adequacy and stability of the client's financial status, what difficulties they perceive with it, what resources may be available, client's ability to manage personal finances; and (10-22-93)

ve. Social relationships/support: Includes but is not limited to client's ability to establish/maintain personal support systems or relationships, client's ability to acquire leisure, recreational, or social interests; and (10-22-93)

vif. Family status: Includes but is not limited to: client's ability or desire to carry out family roles, client's perception of the support he receives from their family, what role does the family play in the client's mental illness; and (10-22-93)

viig. Basic living skills: Includes but is not limited to client's ability to meet their basic living needs, what does the client want to accomplish in this area; and (10-22-93)

viiih. Housing: Includes but is not limited to: current living situation and level of satisfaction with the arrangement, is present situation appropriate to the client's needs; and (8-1-92)

ix. Community/Legal status: Includes but is not limited to legal history with law enforcement, transportation needs, supports the client has in the community, daily living skills necessary for community living. (8-1-92)

b02. Service Plan Development And Implementation. Following the assessment(s) and determination of need for CM, a written service plan shall be developed and implemented as a vehicle to address the case management needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family or other support system, and the CM provider. The written service plan shall be developed within thirty (30) calendar days of when the recipient chooses the agency as his provider and must be signed by a licensed physician and must include, at a minimum: (~~8-1-92~~)(10-1-99)T

ia. A list of focus problems identified during the assessments; and (8-1-92)

iib. Concrete, measurable goals to be achieved, including time frames for achievement; and (8-1-92)

iiic. Specific plans directed toward the achievement of each one of the goals; and (8-1-92)

ivd. Documentation of who has been involved in the service planning; the recipient, if possible, must be involved. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided as to why this was not possible. A copy of the plan must be given to the recipient; and (8-1-92)

ve. Reference to any formal services arranged, including specific providers where applicable; and

(8-1-92)

~~v~~f. Planned frequency of services initiated. (8-1-92)

~~e~~03. **Crisis Assistance.** Crisis assistance services are those case management activities that are needed in addition to the assessment and ongoing case management hours in emergency situations. These are necessary activities to obtain services needed to ensure the health and/or safety or to prevent hospitalization or incarceration of a recipient. Crisis assistance may be provided prior to or after the completion of the assessments and individual service plan. (8-1-92)

~~d~~04. **Linking/Coordination Of Services.** Through negotiation and referrals, the case manager links the recipient to various providers of services/care and coordinates service delivery. Coordination of service delivery includes activities such as: assuring that needed services have been delivered, consulting with service providers to ascertain whether they are adequate for the needs of the recipient, and consulting with the client to identify the need for changes in a specific service or the need for additional services. The case manager may refer to his own agency for services but may not restrict the recipient's choice of service providers. It may be necessary to mobilize more than one set of resources to make adequate services available. The case manager may be needed to act as an advocate for the recipient. There must be a minimum of one face-to-face contact with the recipient at least every thirty (30) days. (10-22-93)

~~e~~05. **Case Manager.** The case manager will encourage independence of the recipient by demonstrating to the individual how to best access service delivery systems such as transportation and Meals on Wheels, etc. Such assistance must be directed toward reducing the number of case management hours needed. Such assistance is limited to thirty (30) days per service delivery system. (~~10-22-93~~)(10-1-99)T

479. (RESERVED).

~~03~~**480. CM PROVIDER AGENCY QUALIFICATIONS.**

Case management provider agencies must meet the following criteria: (8-1-92)

~~a~~01. **Intake/Pre-Screening.** Utilization of a standardized intake and prescreening process for determining whether or not Medicaid eligible individuals are included in the target group for case management services. Prescreening must be effective in sorting out who does and who does not need a full assessment of needs for CM. (~~8-1-92~~)(10-1-99)T

~~b~~02. **Core Elements.** Demonstrated capacity in providing all core elements of case management services to the target population including: (~~8-1-92~~)(10-1-99)T

~~i~~a. Comprehensive assessment; and (8-1-92)

~~ii~~b. Comprehensive service plan development and implementation; and (8-1-92)

~~iii~~c. Crisis assistance; and (8-1-92)

~~iv~~d. Linking/coordination of services; and (8-1-92)

~~v~~e. Encouragement of independence. (10-22-93)

~~e~~03. **Availability.** Provides clients of the agency the availability of a case manager on a twenty-four (24) hour basis to assist them in obtaining needed services. (~~8-1-92~~)(10-1-99)T

~~04~~**481. CM PROVIDER Staff QUALIFICATIONS.**

All individual CM providers must be employees of an organized provider agency that has a valid CM provider agreement with the Department. The employing entity will supervise individual CM providers and assure that the following qualifications are met for each individual CM provider: (~~8-1-92~~)(10-1-99)T

~~a~~01. **Staff Qualifications.** Must be a Psychiatrist, M.D., D.O.; or physician, M.D., D.O.; or Licensed

Psychologist; or Psychologist Extender who is registered with the Bureau of Occupational Licenses; or social worker with a valid Idaho social work license issued by the Board of Social Work Examiners; or nurse, R.N.; or Licensed Professional Counselor - Private Practice Licensure; or a clinician employed by a state agency and who meets the requirements of the ~~Idaho~~ Division of Human Resources and Personnel Commission; or an individual having a B.A./B.S. in a human services field and at least one (1) year experience with the target population. ~~(7-1-99)~~(10-1-99)T

~~b02.~~ **Caseload.** A total caseload per case manager of no more than twenty (20) individuals. The Bureau may grant a waiver of the caseload limit when requested by the agency. The following criteria must be met to justify a waiver: ~~(8-1-92)~~(10-1-99)T

~~i~~a. The availability of case management providers is not sufficient to meet the needs of the service area. (8-1-92)

~~ii~~b. The recipient that has chosen the particular agency or individual case manager that has reached their limit, and has just cause to need that particular agency or manager over other available agencies/managers. (7-1-99)

~~iii~~c. The request for waiver must include: (8-1-92)

~~(1)~~i. The time period for which the waiver is requested; (8-1-92)

~~(2)~~ii. The alternative caseload limit requested; (8-1-92)

~~(3)~~iii. Assurances that the granting of the waiver would not diminish the effectiveness of the CM agency, violate the purposes of the program, or adversely affect the recipients' health and welfare. (8-1-92)

~~iv~~d. The Bureau may impose any conditions on the granting of the waiver which it deems necessary. (8-1-92)

~~v~~e. The Bureau may limit the duration of a waiver. (8-1-92)

05482. RECIPIENT'S CHOICE.

The eligible recipient will be allowed to choose whether or not he desires to receive CM services. All recipients who choose to receive CM services will have free choice of CM providers as well as the providers of medical and other services under the Medicaid program. (8-1-92)

06483. PAYMENT FOR SERVICES.

When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as CM services, however, the actual provision of the service does not constitute CM. Medicaid will reimburse only for core services (Subsection 116.02) provided to members of the eligible target group by qualified staff. (8-1-92)

~~a01.~~ **Duplication.** Payment for CM will not duplicate payment made to public or private entities under other program authorities for the same purpose. ~~(8-1-92)~~(10-1-99)T

~~b02.~~ **Inpatients.** Payment will not be made for CM services provided to individuals who are inpatients in nursing homes or hospitals. ~~(8-1-92)~~(10-1-99)T

~~e03.~~ **Evaluation/Service Plan Development.** Reimbursement for the initial evaluation and individual service plan development shall be paid based on an hourly rate, not to exceed eight (8) hours. The rate will be established by the Bureau. ~~(8-1-92)~~(10-1-99)T

~~d04.~~ **Case Management.** Reimbursement for on-going case management services shall be made on an hourly rate for service delivered. The rate will be established by the Bureau. ~~(8-1-92)~~(10-1-99)T

~~e05.~~ **Reimbursement.** Medicaid reimbursement shall be provided only for the following case management services: ~~(8-1-92)~~(10-1-99)T

~~i~~a. Face-to-face contact between the case manager and the recipient, no less than every thirty (30) days; ~~(8-1-92)~~(10-1-99)T

~~ii~~b. Telephone contact between the case manager and the recipient, the recipient's mental health and other service providers, a recipient's family members, primary caregivers, legal representative, or other interested persons; (8-1-92)

~~iii~~c. Face-to-face contacts between the case manager and the recipient's family members, legal representative, primary caregivers, mental health providers or other service providers, or other interested persons; (8-1-92)

~~iv~~d. Development, review, and revision of the recipient's individual service plan, including the case manager's functional assessment of the recipient. (8-1-92)

~~f~~06. **Services Delivered Prior To Assessment.** The Department will not provide Medicaid reimbursement for on-going case management services delivered prior to the completion of the assessments and individual service plan. ~~(8-1-92)~~(10-1-99)T

~~g~~07. **Crisis Assistance.** The Department will provide Medicaid reimbursement for crisis assistance provided prior to or after the completion of the assessments and individual service plan. ~~(8-1-92)~~(10-1-99)T

~~h~~08. **Audit Reviews.** Audit reviews will be conducted at least once a calendar year by the Bureau. Review findings may be referred to the Department's Surveillance and Utilization Review Section for appropriate action. ~~(7-1-94)~~(10-1-99)T

~~i~~09. **Recoupment.** Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of payments for services, sanctions, or both. ~~(10-22-93)~~(10-1-99)T

~~j~~10. **Information.** The provider will provide the Department with access to all information required to review compliance with these rules. ~~(10-22-93)~~(10-1-99)T

~~k~~11. **Group Case Management.** The Department will not provide Medicaid reimbursement for case management services provided to a group of recipients. ~~(8-1-92)~~(10-1-99)T

~~l~~12. **Case Management In A Facility.** Medicaid will reimburse for case management services on the same date a recipient is admitted or discharged from a hospital, nursing facility, or other institutional setting, as long as the recipient is not yet admitted or has been discharged at the time of service delivery. ~~(8-1-92)~~

~~i~~. Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the facility. ~~(7-1-94)~~(10-1-99)T

~~07484.~~ **RECORD REQUIREMENTS.**

In addition to the development and maintenance of the service plan, the following documentation must be maintained by the provider: (8-1-92)

~~a~~01. **Name.** Name of recipient; ~~and.~~ ~~(8-1-92)~~(10-1-99)T

~~b~~02. **Provider.** Name of the provider agency and person providing the service; ~~and.~~ ~~(8-1-92)~~(10-1-99)T

~~03.~~ **Diagnosis.** Diagnosis, contained in Subsection 477.01.a., documented by a qualified physician prior to assessment. (10-1-99)T

~~e~~04. **Date.** Date, time, and duration of service; ~~and.~~ ~~(8-1-92)~~(10-1-99)T

~~d~~05. **Place Of Service.** Place of service; ~~and.~~ ~~(8-1-92)~~(10-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9912

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held in conjunction with Docket No. 16-0411-9902, IDAPA 16.04.11, Rules Governing Developmental Disabilities Agencies and Docket No. 16-0309-9913, Rules Governing Medical Assistance. Copies of Docket(s) No. 16-0411-9902 and 16-0309-9913 can be found in this publication. The schedule of the hearing(s) will be held as follows:

October 12, 1999, at 7:00 p.m. at the following locations:

- 1) Ameritel Inn-Blue Lakes Room, 1377 Blue Lakes Blvd., Twin Falls;
- 2) Coeur d'Alene Inn-Syringa Room, 414 West Appleway Ave., Couer d'Alene;
- 3) Sacajawea Motor Inn- Lochsa Room, 1824 Main Street, Lewiston.

October 13, 1999, at 7:00 p.m. at the following locations:

- 1) Best Western Caldwell Inn & Suites-Meeting Room, 908 Specht Ave., Exit 29 S., Caldwell;
- 2) Ameritel Inn-Pebble Creek Room, 1500 Bench Road, Pocatello.

October 14, 1999, at 7:00 p.m. at the following locations:

- 1) Holiday Inn-Ponderosa Room, 3300 So. Vista Ave., Boise;
- 2) Stardust Days Inn-Russett Room, 700 Lindsay, Idaho Falls.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Adds Intensive Behavioral Intervention as a new service. This service is in the process of being added the Rules Governing Developmental Disability Agencies and the Rules Governing Psychosocial Rehabilitation Services. The intent is to help meet the needs of children with severe behavioral and social problems that do not fall within the definition of seriously and emotionally disturbed. The full text from IDAPA 16.03.11, "Rules Governing Developmental Disability Agencies" Subsections 805.03 and 805.04 are incorporated by reference to describe the new service and its requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Lorraine Hutton at (208) 364-1835.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 27, 1999.

DATED this 18th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9912

563. REIMBURSABLE SERVICES.

School Districts Infant Toddler Programs may bill for the following health related services provided to eligible students when provided under the recommendation of a physician or other practitioner of the healing arts:

(9-1-99)T

01. Annual Plan Development. Annual IEP or IFSP plan development; (9-1-99)T

02. Collateral Contact. Consultation or treatment direction about the student to a significant other in the student's life. (7-1-99)

03. Developmental Therapy Evaluation And Treatment. Assessment, treatment and instruction of the student in the acquisition of developmental milestones and activities of daily living skills that the student has not gained at the normal developmental stages in his or her life, or is not likely to develop without training or therapy beyond age appropriate learning situations. Developmental therapy does not include tutorial activities or assistance with educational tasks associated with educational needs that result from the student's disability; (7-1-99)

04. Early Periodic Screening, Diagnosis, And Treatment (EPSDT) Services. Services include age appropriate health history and health screening services; (7-1-99)

05. Medical Equipment And Supplies. Includes medical equipment and supplies that are covered under the Idaho Medicaid program; (7-1-99)

06. Nursing Services. Includes skilled nursing services that must be provided by a licensed nurse. (7-1-99)

07. Occupational Therapy Evaluation And Treatment. Does not include components of occupational therapy that deals with vocational assessment, training or vocational rehabilitation. (7-1-99)

08. Personal Care Services. School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements such as basis personal care and grooming; assistance with bladder or bowel requirements; assistance with eating (including feeding); or other tasks delegated by a Registered Nurse. (9-1-99)T

09. Physical Therapy Evaluation And Treatment. (7-1-99)

10. Psychological Evaluation And Therapy. (7-1-99)

11. Psychosocial Rehabilitation Evaluation And Treatment. Includes assistance in gaining and utilizing skills necessary to participate in school such as training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, and coping skills. (7-1-99)

12. Intensive Behavioral Intervention. IDAPA 16.03.09, Subsection 563.12, incorporates by reference the full text of the requirements regarding Intensive Behavioral Interventions, found in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies." Subsections 805.03 and 805.04. ()

123. Speech/Audiological Evaluation And Treatment. (7-1-99)

134. Social History And Evaluation. (7-1-99)

145. Transportation Services. School districts can receive reimbursement for transporting a student when: (7-1-99)

- a. The student requires special transportation assistance such as a wheelchair lift or an attendant when medically necessary for the health/safety of the student; and (7-1-99)
- b. The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability. (9-1-99)T
- c. The student requires and receives another Medicaid reimbursable service, other than transportation, on the day that transportation is being provided; and (7-1-99)
- d. Both the Medicaid covered service and the need for the special transportation are included on the student's IEP or IFSP. (7-1-99)

156. Interpretive Services. Interpretive services are those services needed by a student who does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health related service. (7-1-99)

- a. Payment for interpretive services are limited to the specific time that the student is receiving the health related service. (7-1-99)
- b. Both the Medicaid covered service and the need for interpretive services are included on the student's IEP or IFSP. (7-1-99)
- c. Interpretive services would not be covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

569. PROVIDER STAFF QUALIFICATIONS.

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (9-1-99)T

- 01. Annual IEP Or IFSP Plan Development.** Must include the professionals who completed the evaluations and recommendations for IEP or IFSP services. May only be billed when the IEP or IFSP includes reimbursable health related services. (7-1-99)
- 02. Collateral Contact.** Contact and direction must be provided by a professional who provides the treatment direction is needed. (9-1-99)T
- 03. Developmental Therapy Evaluation And Treatment.** Must be provided by or under the direction of a developmental specialist. IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 569.03, incorporates by reference the full text of the definition of a developmental specialist found in IDAPA 16.04.11, "Rules Governing Developmental Disability Agencies". (9-1-99)T
- 04. EPSDT Screens.** May be provided by a physician, physician extender (nurse practitioner, clinical nurse specialist, or physician's assistant), or EPSDT RN screener. (9-1-99)T
- 05. Medical Equipment And Supplies.** (9-1-99)T
- 06. Nursing Services.** Must be provided by a licensed professional nurse (RN) or licensed practical nurse (LPN) licensed to practice in Idaho. (9-1-99)T
- 07. Occupational Therapy Evaluation And Treatment.** Must be provided by or under the supervision of an individual qualified and registered to practice in Idaho. (7-1-99)
- 08. Personal Care Services.** Must be provided by a nurses aide (CNA) certified by the state of Idaho, a licensed professional nurse (RN) or licensed practical nurse (LPN), licensed by the state of Idaho. When services are

provided by a CNA, the CNA must be supervised by a RN. (9-1-99)T

09. Physical Therapy Evaluation And Treatment. Must be provided by an individual qualified and registered to practice in Idaho. (7-1-99)

10. Psychological Therapy Evaluation And Treatment. Must be provided by: (7-1-99)

a. A licensed psychiatrist; (7-1-99)

b. Licensed physician; (7-1-99)

c. Licensed psychologist; (7-1-99)

d. Psychologist extender registered with the Board of Occupational Licenses; (7-1-99)

e. Certified psychiatric nurse; (7-1-99)

f. Certified school psychologist; (7-1-99)

g. Licensed professional counselor with a private practice license; or (7-1-99)

h. Licensed certified social worker. (7-1-99)

11. Psychosocial Rehabilitation. Must be provided by: (7-1-99)

a. A licensed psychiatrist; (7-1-99)

b. Licensed physician; (7-1-99)

c. Licensed psychologist; (7-1-99)

d. Psychologist extender registered with the Board of Occupational Licenses; (7-1-99)

e. Certified psychiatric nurse; (7-1-99)

f. Certified school psychologist; (7-1-99)

g. Licensed professional counselor with a private practice license; (7-1-99)

h. Licensed certified social worker; or (7-1-99)

i. Psychosocial rehabilitation specialist. (7-1-99)

12. Intensive Behavioral Intervention. IDAPA 16.03.09, Subsection 563.12, incorporates by reference the full text of the requirements regarding Intensive Behavioral Interventions, found in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies." Subsections 805.03 and 805.04. ()

123. Speech/Audiological Therapy Evaluation And Treatment. Must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech Language and Hearing Association (ASHA); or who will be eligible for certification within one (1) year of employment. (9-1-99)T

134. Social History And Evaluation. Must be provided by a registered nurse; psychologist; M.D.; or by a person who is licensed and qualified to provide social work in the state of Idaho. (9-1-99)T

145. Transportation. Must be provided by a individual who has a current Idaho driver's license and vehicle liability insurance that covers passengers for business use. (9-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE

DOCKET NO. 16-0309-9913

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held in conjunction with Docket No. 16-0411-9902, IDAPA 16.04.11, Rules Governing Developmental Disabilities Agencies and Docket No. 16-0309-9913, Rules Governing Medical Assistance. Copies of Docket(s) No. 16-0411-9902 and 16-0309-9913 can be found in this publication. The schedule of the hearing(s) will be held as follows:

October 12, 1999, at 7:00 p.m. at the following locations:

- 1) Ameritel Inn-Blue Lakes Room, 1377 Blue Lakes Blvd., Twin Falls;
- 2) Coeur d'Alene Inn-Syringa Room, 414 West Appleway Ave., Couer d'Alene;
- 3) Sacajawea Motor Inn- Lochsa Room, 1824 Main Street, Lewiston.

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- 2) Stardust Days Inn-Russett Room, 700 Lindsay, Idaho Falls.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Based on a negotiated process, it was determined that Intensive Behavioral Intervention would be added to three (3) sets of rules: Developmental Disability Agency, Mental Health Rehabilitative Services and School Based Services. It is being added to the Rehabilitative Services rules by reference to IDAPA 16.04.11, Rules Governing Developmental Disability Agency found in Docket No. 16-0411-9902.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jean Christensen at (208) 364-1828.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 27, 1999.

DATED this 13th day of August, 1999.

Sherri Kovach
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-9913

452. SERVICE DESCRIPTIONS.

A PSR shall consist of the following services:

(10-1-99)T

01. Comprehensive Assessment. A comprehensive assessment shall be completed for each recipient of PSR services which addresses the recipient's assets, deficits and needs directed towards formulation of a written diagnosis and treatment plan. Assessment is an interactive process with the maximum feasible involvement of the recipient and is directly related to individual's mental illness. The assessment, with supplemental psychiatric, psychological, or specialty evaluations and tests, must be in written form, dated and signed. They must be retained in the recipient's file for documentation purposes. Should the assessment reveal that the person does not need rehabilitative services, appropriate referrals shall be made to meet other needs of the recipient. The assessment is reimbursable if conducted by a qualified provider, in accordance with Section 454. All the following areas must be evaluated and addressed:

(10-1-99)T

a. Psychiatric history and current mental status which includes at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the recipient manifests, the recipient's ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to the recipient's current psychiatric status; and

(7-1-94)

b. Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current physician; and

(7-1-94)

c. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and

(7-1-94)

d. Financial status which includes at a minimum, adequacy and stability of the recipient's financial status, difficulties the recipient perceives with it, resources available, recipient's ability to manage personal finances; and

(7-1-94)

e. Social relationships/support which includes, at a minimum, recipient's ability to establish/maintain personal support systems or relationships and recipient's ability to acquire leisure, recreational, or social interests; and

(7-1-94)

f. Family status which includes, at a minimum, the recipient's ability or desire to carry out family roles, recipient's perception of the support he receives from his family, and the role the family plays in the recipient's mental illness; and

(7-1-94)

g. Basic living skills which includes at a minimum, recipient's ability to meet basic living needs, what the recipient wants to accomplish in this area; and

(7-1-94)

h. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, present situation as appropriate to the recipient's needs; and

(7-1-94)

i. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient has in the community, daily living skills necessary for community living.

(7-1-94)

02. Written Service Plan. A written service plan shall be developed and implemented for each recipient of PSR services as a vehicle to address the rehabilitative needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family and

other support systems. The written service plan shall be developed within thirty (30) calendar days from the date of application and be signed by a licensed physician. Service planning is reimbursable if conducted by a qualified provider, in accordance with Subsections 454.01 through 454.09. Task planning may be done by a qualified provider in accordance with Section 454. The service plan must include, at a minimum: (10-1-99)T

- a. A list of focus problems identified during the assessment; and (7-1-94)
- b. Concrete, measurable goals to be achieved, including time frames for achievement; and (7-1-94)
- c. Specific objectives directed toward the achievement of each one of the goals; and (7-1-94)
- d. Documentation of participants in the service planning; the recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient; and (7-1-94)
- e. Reference to any formal services arranged, including specific providers where applicable; and (7-1-94)
- f. Planned frequency of services initiated. (7-1-94)

03. Psychotherapy. Individual, group and family psychotherapy shall be provided in accordance with the objectives specified in the written service plan. (10-1-99)T

a. These services are reimbursable if provided by a qualified professional in accordance with Subsections 454.01 through 454.08. (10-1-99)T

b. Family psychotherapy must include the recipient and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. (7-1-94)

04. Pharmacologic Management. Pharmacologic management services shall be provided in accordance with the service plan. The telephoning of prescriptions to the pharmacy is not a billable service. Medication prescription must be done by a licensed physician or licensed nurse practitioner in direct contact with the recipient. (10-1-99)T

05. Administration Of Medication. Licensed and qualified nursing personnel can supervise, monitor, or administer medications within the limits of the Nurse Practice Act, Section 54-1402 (d), Idaho Code. Other PSR providers, included in Section 454, may assist in "self" administration by verbal prompts and must include assessment of current mental status. (10-1-99)T

06. Individual Psychosocial Rehabilitation. Individual Psychosocial Rehabilitation shall be provided in accordance with the objectives specified in the service plan. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Individual psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider, in accordance with Section 454. This service includes one (1) or more of the following: (10-1-99)T

a. Assistance in gaining and utilizing skills necessary to undertake school or employment. This includes helping the recipient learn personal hygiene and grooming, securing appropriate clothing, time management and other skills related to recipient's psychosocial condition. (7-1-94)

b. Ongoing, on-site assessment/evaluation/feedback sessions to identify symptoms or behaviors and to develop interventions with the recipient and employer or teacher. (7-1-94)

c. Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior directly related to the individuals mental illness. (10-1-99)T

d. Problem solving, support, and supervision related to activities of daily living to assist recipients to

gain and utilize skills including, but not limited to, personal hygiene, household tasks, transportation utilization, and money management. (7-1-94)

e. To assist the acquisition of necessary services when recipients are unable to obtain them by escorting them to Medicaid reimbursable appointments. (7-1-94)

f. Medication education may be provided by a licensed physician or licensed nurse focusing on educating the recipient about the role and effects of medications in treating symptoms of mental illness. (2-6-95)

07. Group Psychosocial Rehabilitation. Group psychosocial rehabilitation shall be provided in accordance with the objectives specified in the service plan. This is a service to two or more individuals, at least one of whom is a recipient. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Group psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider, in accordance with Section 454. This service includes one (1) or more of the following: (10-1-99)T

a. Medication education groups provided by a licensed physician or licensed nurse focusing on educating recipients about the role and effects of medications in treating symptoms of mental illness. These groups must not be used solely for the purpose of group prescription writing. (7-1-94)

b. Employment or school related groups to focus on symptom management on the job or in school, anxiety reduction, and education about appropriate job or school related behaviors. (7-1-94)

c. Groups in communication and interpersonal skills, the goals of which are to improve communication skill and facilitate appropriate interpersonal behavior. The client must be present. (10-1-99)T

d. Symptom management groups to identify symptoms of mental illnesses which are barriers to successful community integration, crisis prevention, identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons. (7-1-94)

e. Groups on activities of daily living which help recipients learn skills related to, but not limited to, personal hygiene and grooming, household tasks, transportation utilization and money management. (7-1-94)

08. Community Crisis Support. Community crisis support which includes intervention for recipients in crisis situations to ensure the health and safety or to prevent hospitalization or incarceration of a recipient. (10-1-99)T

a. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. (7-1-94)

b. Community crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service, even if it is not in the service plan. (7-1-94)

c. Community crisis support is reimbursable if provided by personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider, in accordance with Section 454. (10-1-99)T

09. Intensive Behavioral Intervention. IDAPA 16.03.09, Sections 450 through 457, incorporates by reference the full text of the requirements regarding Intensive Behavioral Interventions, found in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," Subsections 805.03 and 805.04. ()

10. Development Of Positive Social Behaviors. IDAPA 16.03.09, Sections 450 through 457, incorporates by reference the full text of the requirements regarding Positive Social Behaviors, found in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," Subsections 763.01 through 763.10. ()

(BREAK IN CONTINUITY OF SECTIONS)

469. TREATMENT SERVICES.

01. Psychotherapy. Individual and group psychotherapy must be provided in accordance with the goals specified in the written medical treatment plan. (10-1-99)T

02. Family Centered Services. Family-centered psychosocial services must include at least two (2) family members and must be delivered in accordance with the goals of treatment as specified in the medical treatment plan. (10-1-99)T

03. Emergency Services. Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (10-1-99)T

a. Emergency services provided to an eligible recipient prior to intake and evaluation is a reimbursable service but must be fully documented in the recipient's record; and (11-10-81)

b. Each emergency service will be counted as a unit of service and part of the allowable limit per recipient unless the contact results in hospitalization. (11-10-81)

04. Collateral/Contact Consultation. Collateral contact may be provided if face to face, and included on care plan and is necessary to gather information from an individual having a primary relationship to the client. (10-1-99)T

05. Nursing Facility. Psychotherapy services may be provided to recipients residing in a nursing facility if the following criteria are met: (10-1-99)T

a. The recipient has been identified through the PASARR Level II screening process as requiring psychotherapy as a specialized service; and (11-29-91)

b. The service is provided outside the nursing facility at a clinic location; and (10-1-99)T

c. Services provided are: (11-29-91)

and i. Supported by the independent evaluations completed and approved by the Mental Health Authority; (11-29-91)

ii. Incorporated into the recipient's medical care plan; and (11-29-91)

iii. Directed toward the achievement of specific measurable objectives which include target dates for completion. (11-29-91)

06. Provider Qualifications. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 469.01 through 469.04 must have, at a minimum, one (1) or more of the following degrees: (10-1-99)T

a. Psychiatrist, M.D.; or (11-29-91)

b. Physician, M.D.; or (11-10-81)

c. Licensed Psychologist; or (7-1-99)

d. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)

- e. Licensed Certified Social Worker or Licensed Certified Social Worker - Private Practice; or (7-1-99)
- f. Licensed Professional Counselor - Private Practice Licensure; or (7-1-99)
- g. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (7-1-99)
- h. Certified Psychiatric Nurse, R.N.; or (7-1-99)
- i. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998. (7-1-99)

07. Psychotherapy Limitations. Psychotherapy services as set forth in Subsections 469.01 through 469.03 are limited to forty-five (45) hours per calendar year. (10-1-99)T

08. Chemotherapy. Chemotherapy consultations must be provided by a physician or licensed nurse practitioner in direct contact with the recipient. (10-1-99)T

a. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the treatment plan; and (11-10-81)

b. Chemotherapy treatment can be part of the medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

09. Nursing Services. Nursing services, when physician ordered and supervised, can be part of the recipient's medical care plan. (10-1-99)T

a. Licensed and qualified nursing personnel can supervise, monitor, and/or administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and (11-10-81)

b. Such treatment can be part of the recipient's medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

10. Partial Care. Partial care services will be a structured program and will be directed toward the maintenance of socio-emotional levels, reduction of psychosocial dysfunctioning, and the promotion of psychosocial levels of functioning insuring the optimal level of function and independence. (10-1-99)T

a. To qualify as a partial care service it must include an individual treatment plan based on concrete measurable goals and outcomes. The service must be offered a minimum of three (3) continuous hours daily, four (4) days per week; and (10-1-99)T

b. Treatment will be limited to ~~fifty-six~~ thirty (~~56~~30) hours per week per eligible recipient; and (~~7-8-90~~)()

c. Partial care services offered on an extension basis less than this standard are allowable when such services are directly affiliated with a partial care service that meets this standard; and (11-10-81)

d. Partial care services will be part of the recipient's medical care plan which must specify the amount, frequency, and expected duration of treatment; and (11-10-81)

e. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in Subsection 466.04. (10-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.20 - RULES GOVERNING ELECTRONIC PAYMENTS (EP) OF PUBLIC ASSISTANCE,
FOOD STAMPS AND CHILD SUPPORT

DOCKET NO. 16-0320-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective November 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l), 52-208(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rulemaking:

Changes the title of these rules to Rules Governing Electronic Payments (EP) of Public Assistance, Food Stamps and Child Support.

Provides that participants in public assistance and Food Stamps access their benefits through EP and that Child Support payments are made through EP.

Provides that participants who receive child support payments through EP are solely liable for the first fifty dollars (\$50) of their unauthorized fund use.

Adds a definition of EP Vendor.

Repeals policy on stale benefit accounts.

Provides time limit for when unused public assistance and Food Stamp benefits no longer will be available to the participant.

Provides that Food Stamp benefits converted to cash because the participant is moving to an area where EP benefits cannot be used, must be used within seven (7) days.

Provides that the Department will not deactivate an EP card. Deactivation must be done by the Customer Service Center of the EP Vendor.

Provides that the participant can change his Personal Identification Number by contacting the Department or the Customer Service Center of the EP Vendor.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 11th day of August, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0320-9901

IDAPA 16
TITLE 03
Chapter 20

16.03.20 - RULES GOVERNING ELECTRONIC ~~BENEFITS TRANSFER (EBT)~~ PAYMENTS OF PUBLIC ASSISTANCE ~~AND~~, FOOD STAMPS, ~~AND~~ CHILD SUPPORT

000. LEGAL AUTHORITY.

The Department of Health and Welfare is authorized to adopt rules for the administration of public assistance programs and child support services by Section 56-202, Idaho Code. (7-1-98)(11-1-99)T

001. TITLE AND SCOPE.

01. Title. These rules are known and will be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.03.20, "Rules Governing Electronic ~~Benefits Transfer (EBT)~~ Payments of Public Assistance ~~and~~, Food Stamps, ~~and~~ Child Support". (7-1-98)(11-1-99)T

02. Scope. These rules provide standards for delivery of Food Stamps, ~~and~~ cash public assistance, ~~and~~ child support payments. (7-1-98)(11-1-99)T

002. WRITTEN INTERPRETATIONS.

This agency has no written statements which pertain to the interpretations of these rules. (11-1-99)T

003. ADMINISTRATIVE APPEAL.

Appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (11-1-99)T

004. ~~RULE AVAILABILITY (RESERVED).~~

~~Copies of these rules are available from the Administrative Procedures Section, 10th Floor, Towers Building, 450 West State Street, P.O. Box 83720, Boise, Idaho 83720-0036.~~ (7-1-98)

005. IDAHO ELECTRONIC ~~BENEFIT TRANSFER~~ PAYMENTS (EP) SYSTEM - CASH AND FOOD STAMPS.

~~Participants in the Food Stamp and cash public assistance programs in Idaho access their benefits through the Idaho Electronic Transfer Payment system. Access is made using a plastic debit card (EBT card) and secret personal identification number (PIN). Programs using EBT as a payment system include Food Stamps (FS), Temporary Assistance to Families in Idaho (TAFI), Aid to the Aged, Blind and Disabled (AABD) and Refugee Cash Assistance~~

~~(RCA).~~ The Idaho ~~EBT~~ Electronic Payment (EP) system meets the requirements for the distribution of government benefits set forth in the QUEST Operating Rules as adopted and amended by the National Automated Clearing House Association (NACHA). ~~EBT EP~~ for the Food Stamp and cash public assistance programs is exempt from Regulation E (relating to Electronic Fund Transfers) of the Board of Governors of the Federal Reserve System. Participants are solely liable for unauthorized fund ~~transfers use~~ except those initiated fraudulently by an employee of the state of Idaho, or the EBT Vendor or its employee or subcontractor. ~~(7-1-98)(11-1-99)T~~

006. --009. ~~(RESERVED)~~ IDAHO ELECTRONIC PAYMENTS - CHILD SUPPORT.

Child Support Services (CSS) uses the Electronic Payment (EP) system to disburse child support payments. Participants are solely liable for the first fifty dollars (\$50) of unauthorized fund use, except those initiated fraudulently by an employee of the state of Idaho, the Vendor, or its employee or subcontractor. ~~(11-1-99)T~~

007. ACCESSING BENEFITS AND PAYMENTS.

Participants in the Food Stamp, cash public assistance, and Child Support programs in Idaho access their benefits and payments through the Idaho Electronic Payment (EP) system. Participants use an Electronic Payments (EP) card and secret personal identification number (PIN) to access benefits and payments. ~~(11-1-99)T~~

008. -- 009. (RESERVED).

010. DEFINITIONS.

01. Alternate Payee. A person or agency other than the participant, ~~and~~ who is issued an ~~EBT EP~~ card and PIN, and is authorized to access the participant's ~~benefit~~ account. This term includes authorized household member, authorized representative, guardian/conservator, Limited Power of Attorney for ~~EBT Quest~~ account, parent of a minor child participant, or protective payee. ~~(7-1-98)(11-1-99)T~~

02. Authorized Household Member. ~~A member of a Food Stamp household or cash public assistance family who is~~ member issued an ~~EBT EP~~ card and ~~personal identification~~ PIN number, and is authorized to access the primary card holder's benefit account. ~~(7-1-98)(11-1-99)T~~

03. Authorized Representative. A person who is not a member of a Food Stamp participant's household, ~~and~~ is authorized in writing by a participant to access a Food Stamp benefit account in behalf of the participant. The authorized representative is issued an ~~EBT EP~~ card and PIN. ~~(7-1-98)(11-1-99)T~~

04. Automated Teller Machine (ATM). A machine used to withdraw cash ~~benefits~~ and provide ~~participants card holders~~ with account balance information. ~~(7-1-98)(11-1-99)T~~

05. Benefit Account. ~~An authorization file maintained by the EBT Vendor on behalf of a cardholder. A benefit account will be a Food Stamp benefit account or a cash benefit account. A Food Stamp benefit account can be used to make food purchases. A cash benefit account can be used to make cash withdrawals or purchases.~~ ~~(7-1-98)~~

065. Customer Service Center (CSC). A toll-free telephone service provided by the ~~EBT EP~~ Vendor to help the participant with use of the ~~EBT EP~~ card and provide ~~information about EBT other customer~~ services. This service is available twenty-four (24) hours a day, seven (7) days a week. ~~(7-1-98)(11-1-99)T~~

076. Department. The Idaho Department of Health and Welfare. ~~(7-1-98)~~

087. EBT Vendor. ~~A contractor hired by the Idaho Department of Health and Welfare to deliver EBT financial services, including origination of Automated Clearing House (ACH) transactions, electronic transactions, customer service and settlement services.~~ **EP Account.** An authorization file maintained by the Vendor on behalf of a card holder. An EP account will be a Food Stamp account or a cash account. A Food Stamp account can be used to make food purchases. A cash account can be used to make cash withdrawals or purchases. ~~(7-1-98)(11-1-99)T~~

098. Guardian. This term includes the guardian of a person, the conservator, or the guardian for public assistance. ~~(7-1-98)~~

109. Limited Power Of Attorney For ~~EBT Account~~ Electronic Payments. A person with no legal

interest in a participant's cash benefit account who is authorized to access that account on the participant's behalf. The limited power of attorney for an ~~EBT account~~ Electronic Payments must be authorized by notarized signature on a Department form. (7-1-98)(11-1-99)T

140. Personal Identification Number (PIN). A four (4) digit secret number issued to or selected by the EBT EP card holder. The PIN is used with the card to initiate an EBT EP transaction. (7-1-98)(11-1-99)T

121. Point of Sale (POS) Terminal. An electronic device located at retail outlets through which card holders can conduct EBT EP Food Stamp and cash transactions with their EBT EP card and PIN. (7-1-98)(11-1-99)T

13. Primary Card Holder. ~~The person who has primary responsibility for an EBT benefit account. The primary card holder may be:~~ (7-1-98)

a. ~~An individual whose client identification number is used to establish an EBT benefit account; or~~ (7-1-98)

b. ~~An individual who is a guardian, a parent of a minor child, a protective payee, or a person granted limited power of attorney because the participant is unable to use his EBT benefit card.~~ (7-1-98)

142. Protective Payee. This term includes a residential habilitation agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," or its employees, affiliated habilitation providers or contractors who are designated as payee on behalf of the agency's consumer. This term also includes a person or agency designated by the Social Security Administration as the representative payee for an AABD recipient's participant's Social Security and/or SSI payment. (7-1-98)(11-1-99)T

15. Stale Account. ~~An EBT benefit account that has not had any debit activity for ninety (90) days or longer.~~ (7-1-98)

13. Vendor. A contractor hired by the Idaho Department of Health and Welfare to deliver financial services, including origination of Automated Clearing House (ACH) transactions, electronic transactions, customer service, and settlement services. (11-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

030. ABBREVIATIONS.

- 01. AABD.** Aid to the Aged, Blind, and Disabled. (7-1-98)
- 02. ACH.** Automated Clearing House. (7-1-98)
- 03. ATM.** Automated Teller Machine. (7-1-98)
- 04. EBT EP.** Electronic Benefit Transfer Payment. (7-1-98)(11-1-99)T
- 05. PIN.** Personal Identification Number. (7-1-98)
- 06. POS.** Point of Sale. (7-1-98)
- 07. SSI.** Supplemental Security Income. (7-1-98)
- 08. TAFI.** Temporary Assistance for Families in Idaho. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

~~101. -- 119.~~ (RESERVED).

~~120. STALE BENEFIT ACCOUNTS.~~

~~A participant cannot access benefits in a stale account. The participant must contact the Department to reactivate his account.~~ (7-1-98)

~~121. STALE BENEFIT ACCOUNT NOTICE REQUIREMENTS.~~

~~The Department must explain to the participant, at certification and at recertification or redetermination, that benefits will not be accessible if the benefit account has not had any debit activity for ninety (90) days. The Department must also explain the procedures necessary to reactivate the stale benefit account.~~ (7-1-98)

~~122~~1. -- 129. (RESERVED).

~~130. CLOSURE OF STALE BENEFIT ACCOUNTS EXPUNGEMENT - CASH ASSISTANCE AND FOOD STAMPS.~~

~~Stale accounts will be closed. The participant may lose claim to the benefits depending on specific program policy. Stale benefit accounts will be closed according to the time lines listed in Subsections 130.01 through 130.02. A cash or Food Stamp EP account will be expunged if the account has not had any debit activity in two hundred seventy (270) consecutive days. The participant loses any right to the cash or Food Stamps in the expunged account.~~ (7-1-99)(11-1-99)T

~~01. AABD Or TAFI Benefit Account. An AABD or TAFI benefit account will be closed if the participant does not request reactivation during the thirty (30) day period beginning with the day the account becomes stale.~~ (7-1-99)

~~02. Food Stamp Benefit Account. A Food Stamp benefit account will be closed if the participant does not request reactivation during the one hundred and eighty (180) day period beginning with the day the account becomes stale.~~ (7-1-98)

~~131. -- 132.~~ (RESERVED).

~~133. NOTICE REQUIREMENT FOR CLOSING STALE BENEFIT ACCOUNTS.~~

~~The Department must notify the participant before closing the account.~~ (7-1-98)

~~134~~1. -- 139. (RESERVED).

~~140. CONVERSION OF FOOD STAMP BENEFIT ACCOUNT BALANCES.~~

~~When Aa participant movinges from to an EBT area must be able to convert his electronic benefits for use in a non-EBT area where EP benefits cannot be used, the Department will convert all unused Food Stamp benefits to a cash benefit account. The participant shall have all unused electronic Food Stamp benefits converted to a cash benefit account. Benefits in the converted account will expunge in seven (7) days as provided in 7 CFR Section 274.12.~~ (7-1-99)(11-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

200. CARD ISSUANCE.

~~EBT EP~~ EP cards may be issued though the mail by the ~~EBT~~ Vendor or over the counter at a Department field office. (7-1-98)(11-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

210. DAMAGED, LOST, OR STOLEN CARDS.

The primary card holder, and any additional card holder, is responsible to immediately report the loss, damage, or theft of his ~~EBT EP~~ card to the ~~EBT~~ Vendor's CSC. The ~~participant card holder~~ is responsible to report to the CSC or the Department suspected unauthorized use of ~~his the~~ card or unauthorized access ~~to of his the~~ ~~EBT EP~~ account. When the CSC receives a report of a lost, stolen or damaged ~~EBT EP~~ card, the ~~EBT EP~~ card will be deactivated. The primary card holder is solely responsible for the protection of his ~~EBT EP~~ card and PIN and for access to his ~~EBT EP~~ account by alternate payees. (7-1-98)(11-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

211. -- 2394. (RESERVED).

235. PRIMARY CARD HOLDER.

The primary card holder is the individual whose client identification number is used to establish an account. An individual who is a guardian, a parent of a minor child, a protective payee, or a person granted limited power of attorney because the participant is unable to use his EP card may also be the primary card holder in lieu of the person whose client identification number is used on the card. The primary card holder has primary responsibility for a benefit account. A primary card holder other than the participant is responsible for the participant's EP benefit account transactions. This person accepts and exercises responsibility over the participant's EP benefit account. The participant shall not be issued an EP card. (11-1-99)T

236. -- 239. (RESERVED).

240. DESIGNATION OF ADDITIONAL CARD HOLDERS.

An additional card holder is responsible for account transactions made on behalf of the ~~participant primary card holder~~. An additional card holder may be an authorized household member, an authorized representative, or a limited power of attorney for ~~EBT Quest~~. (7-1-98)(11-1-99)T

01. Additional Card Holder For ~~EBT EP~~ Cash Account. The primary card holder may designate an additional card holder for an ~~EBT EP~~ cash account. (7-1-98)(11-1-99)T

02. Additional Card Holder For ~~EBT EP~~ Food Stamp Account. The primary card holder or another responsible member of the benefit household may designate an additional card holder for an ~~EBT EP~~ Food Stamp account. (7-1-98)(11-1-99)T

241. ~~PRIMARY CARD HOLDER OTHER THAN THE PARTICIPANT (RESERVED).~~

~~A primary card holder other than the participant is a guardian, a parent of a minor child, or a protective payee. A primary card holder is also a person granted limited power of attorney for EBT because the participant is unable to use his EBT benefit card. A primary card holder other than the participant is responsible for the participant's EBT benefit account transactions. This person accepts and exercises fiduciary responsibility over the participant's EBT benefit account. The participant shall not be issued an EBT card.~~ (7-1-98)

242. DEACTIVATING AN ~~EBT~~ EP CARD.

Methods of deactivating the EBT card are listed in Table 242.

TABLE 242				
		Card may be deactivated by contacting CSC.	Card may be deactivated by contacting Department.	Card may not be deactivated.
1	A card holder requests his own card be deactivated.	Yes	Yes†	N/A
2	A primary card holder requests the card of an authorized family member or authorized representative be deactivated.	Yes	Yes†	N/A
3	A participant who is a primary card holder requests the card for his limited power of attorney for EBT be deactivated	Yes	Yes†	N/A
4	A participant who is not the primary card holder requests the card for his primary card holder be deactivated.	No	Yes	N/A
5	A participant requests the card of a group home be deactivated.	No	No	Yes
† Contacting the Department will delay card deactivation.				

An EP card must only be deactivated by the Vendor's CSC. A card holder may request deactivation of his own card or the card of an authorized family member or authorized representative. The participant may request deactivation of the card held by his limited power of attorney for EP. An EP card must not be deactivated at the request of a participant who is not the primary card holder. A group home's EP card must not be deactivated at the request of a Food Stamp participant. (7-1-98)(11-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

300. PERSONAL IDENTIFICATION NUMBER (PIN) ISSUANCE.

The PIN is randomly assigned by the ~~EBT~~ Vendor if the ~~EBT~~ EP card is issued through the mail. A participant ~~who is~~ issued his an EBT EP card over the counter will select his own a PIN. The participant may change his PIN at a Department office or by contacting the CSC. (7-1-98)(11-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

320. PIN SECURITY.

The ~~EBT~~ EP card holder is responsible for maintaining the security of his PIN. The card holder will be provided with training and/or training materials that explain the use of the PIN and how to protect the PIN. The ~~EBT~~ EP card will be automatically ~~de~~inactivated for up to twenty-four (24) hours after four (4) incorrect PIN entries. The card holder is solely responsible for access to his ~~EBT~~ EP account through unauthorized use of his PIN. (7-1-98)(11-1-99)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES
DOCKET NO. 16-0411-9801
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-4601 et. seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held in conjunction with docket No. 16-0411-9901 of this same chapter of rules. Docket No. 16-0411-9901 will publish in the November 3, 1999 Administrative Bulletin, copies will be available at that time. The hearing will be held as follows:

November 15, 1999, at 7:00 p.m.
Boise Airport Holiday Inn - Brundage Room
3300 South Vista Avenue, Boise

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

Private Developmental Disabilities Agencies report difficulties in recruiting staff qualified as Developmental Specialists as defined in these rules. Alternate qualifications are proposed that would allow a broader variety of degrees but require a competency course. Through negotiated rulemaking, providers, consumer advocates and Department representative have come to agreement on a competency course to substitute for degrees not listed in current rule. Comments received since publication suggest a need for improved standards for developmental specialists serving children. The proposed rule includes additional requirements for Developmental Specialists working with children. The original text of the temporary rules, Subsections 003.13 through 003.13.d.ii., was published in the April 1, 1998 Administrative Bulletin, Volume 98-4, pages 9 through 13.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Paul Swatsenbarg at (208) 334-5512.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before November 30, 1999.

DATED this 17th day of August, 1999.

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Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.

The temporary effective date is March 1, 1998.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-4, April 1, 1998, pages 9 through 13.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0411-9801

003. DEFINITIONS.

For the purpose of these rules the following terms are used, as herein defined. (7-1-97)

01. ACCESS Unit. Access to Care Coordination, Evaluation, Services and Supports. A regional multidisciplinary, transdivisional unit that has the responsibility of determining eligibility, authorizing services, and assuring quality services and supports for individuals with developmental disabilities. (7-1-97)

02. Annual. Every three hundred and sixty-five (365) days except during a leap year which equals three hundred and sixty-six (366) days. (7-1-97)

03. Audiologist. A person qualified to conduct hearing evaluation and therapy, who possesses a certificate of clinical competency in audiology or who will be eligible for certification within one (1) year of employment. Certification shall be from the American Speech, Language and Hearing Association (ASHA). (7-1-97)

04. Baseline. Current level of ability to complete a task independently, as a basis for initiating therapeutic intervention. (7-1-97)

05. Board. The Idaho State Board of Health and Welfare. (7-1-97)

06. Bureau Of Developmental Disabilities. The section of the Department responsible for community programs for persons with developmental disabilities and which serves as the state developmental disability authority. (7-1-97)

07. Consumer. A person who has been identified as having a developmental disability as defined in this chapter and who is receiving services through a DDA. (7-1-97)

08. Department. The Idaho Department of Health and Welfare. (7-1-97)

09. Developmental Disabilities Agency (DDA). A developmental disabilities facility designated in accordance with these rules to provide (outpatient) rehabilitative or habilitative services to children or adults with developmental disabilities. (7-1-97)

10. Developmental Disabilities Facility. Any public or private organization or agency which provides developmental disabilities services on an inpatient, outpatient, residential, clinical or other programmatic basis, including community rehabilitation programs and developmental disabilities agencies. (7-1-97)

11. Developmental Disabilities Professional (DDP). A physician, psychologist, social worker, audiologist, speech and language pathologist specialist, developmental specialist, occupational therapist, physical therapist, or therapeutic recreation specialist employed by the developmental disabilities agency to provide evaluation and services as defined by the Department. (7-1-97)

12. Developmental Disability. A chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-97)

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (7-1-97)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (7-1-97)

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-97)

13. Developmental Specialist. A person qualified to conduct developmental evaluation and therapy, including: ()

~~a. A person who possesses a bachelor's or master's degree in special education, early childhood special education, or a related field including early childhood education, speech and language pathology, adult special education, psychology, physical therapy, occupational therapy, social work, or therapeutic recreation and who has a minimum of two hundred forty (240) hours of supervised experience with individuals who have developmental disabilities; or had one (1) year of training or one (1) year of experience in the field of developmental disabilities, or a combination of training and work experience. Persons employed as developmental specialists prior to October 6, 1988 will be exempted from the requirements of these rules, as long as there is not a gap of more than three (3) years of employment as a developmental specialist. Persons hired after October 6, 1988 are subject to the requirements of these rules. (7-1-97)()~~

b. A person who possesses a bachelor's or master's degree in an area not listed in Subsection 003.13.a., and who: ()

i. Has completed a competency course jointly approved by the Department and the Idaho Association of Developmental Disabilities Agencies which relates to the job requirements of a developmental specialist; and ()

ii. Has passed a competency examination approved by the Department; and ()

iii. Has a minimum of two hundred forty (240) hours of supervised experience with individuals who have developmental disabilities; or ()

c. A person who possesses a bachelor's or master's degree in an area not listed in Subsection 003.13.a., and who: ()

i. Has passed a competency examination approved by the Department; and ()

ii. Has a minimum of two hundred forty (240) hours of supervised experience with individuals who have developmental disabilities; or ()

d. A person who is exempt from the requirements of these rules: ()

i. Any person employed as a developmental specialist prior to October 6, 1988 will be exempt from the requirements of these rules as long as there is not a gap of more than three (3) years of employment as a developmental specialist; or ()

ii. Any person employed as a developmental specialist prior to May 30, 1997, unless previously disallowed by the Department, will be exempt from the requirements of these rules; or ()

e. Developmental Specialists providing services to infants and toddlers, birth to three (3) years of age, must have one (1) of the following: ()

i. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or ()

ii. A bachelor's or master's degree in special education, elementary education, speech language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty (20) credits in Early Childhood Special Education (ECSE) from the listing of approved courses. Courses must cover content in each of the following areas, normal child development, characteristics of young children with disabilities and foundations of special education, curriculum and instruction in ESCE, assessment in ESCE, and families of young children with disabilities. Closely related electives may be accepted with recommendation from an institution of higher education; or ()

f. Developmental Specialists providing services to children ages three (3) through five (5) must have the appropriate special education certificate from the State Department of Education, Teacher Certification Section; or ()

g. Developmental Specialists providing services to children ages six (6) through twenty-one (21) during school hours defined by the local school board must have the appropriate special education certificate from the State Department of Education, Teacher Certification Section. ()

h. Developmental Specialists not meeting the standards of Subsections 003.03.e., through 003.03.g. must have a Department approved plan to meet the required standard no later than July 1, 2003. In circumstances where there is a shortage of such qualified personnel to meet service needs, the Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. Satisfactory progress will be determined on an annual review by the Department. On July 1, 2003, each developmental specialist must meet the required standard to continue services to children. ()

14. Director. The Director of the Idaho Department of Health and Welfare or his designee. (7-1-97)

15. Division Of Family And Community Services. The division of the Department with responsibility for both community and institutional services for persons with developmental disabilities and mental illness. (7-1-97)

16. Evaluation. A process by which the need for services or progress toward identified goals is determined. It may include a comprehensive assessment or a specific skill assessment for the purpose of determining baseline or the need for further intervention for the discipline area being assessed. (7-1-97)

17. Habilitation. The process of developing skills and abilities. (7-1-97)

18. Initial License. A license issued to a DDA upon application when the Department determines that all application requirements have been met. An initial license can be issued for a period not to exceed one hundred eighty (180) days from the initiation of services. This license allows the Department time to evaluate the agency's ongoing capability to provide services and to meet these rules. (7-1-97)

19. Normalization. The process of providing services which promote a life as much as possible like that of other citizens of the community, including living in the community and access to community resources. These services are designed to enhance the social image and personal competence of those being served. (7-1-97)

20. Objective. A behavioral statement of outcome developed to address an identified need of an individual. The need is identified by the consumer and guardian where applicable, and others the consumer has chosen to participate on his planning team, to be incorporated into the consumer's repertoire of functional behaviors. The objective is written in measurable terms which specify a target date for completion, no longer than two (2) years in duration, and criteria for successful attainment of the objective. (7-1-97)

21. Occupational Therapist. A person qualified to conduct occupational therapy evaluations and therapy, who is certified by the American Occupational Therapy Certification Board and licensed to practice in Idaho,

and who has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

22. Paraprofessional. A person such as an aide or therapy technician who is qualified to assist DDP's in providing services. (7-1-97)

23. Person Centered Planning Process. The means by which the consumer and those individuals selected by the consumer to be team members, identify the consumer's talents, skills, strengths, needs and desires. (7-1-97)

24. Physical Therapist. A person qualified to conduct physical therapy evaluations and therapy, who is registered to practice in Idaho, and has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

25. Physician. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Sections 54-1801 et seq., Idaho Code. (7-1-97)

26. Provider. Any individual or organization furnishing services through the provisions of these rules. (7-1-97)

27. Provider Agreement. An agreement between a provider and third-party payor whereby the third-party payor agrees to pay the provider for furnishing developmental disabilities rehabilitative and habilitative services in accordance with these rules. (7-1-97)

28. Provisional License. A license issued to a DDA which is found not to be in substantial compliance with these rules but not to have deficiencies which jeopardize the health or safety of consumers. A provisional license can be issued for a specific period of time, not to exceed one hundred eighty (180) days, while corrections are being completed. (7-1-97)

29. Psychologist. A person licensed by the State of Idaho in accordance with the provisions of Sections 54-2301 et seq., Idaho Code, to independently practice psychology, or who is exempt from such requirements and meets the minimum qualifications established by the Idaho Personnel Commission to perform the duties assigned in classified service as defined by the Department, and has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

30. Psychology Assistant. An individual who practices psychology under the supervision of a licensed psychologist as required by Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners". (7-1-97)

31. Rehabilitation. The process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning. (7-1-97)

32. Rehabilitative And Habilitative Services. Evaluation and diagnostic services which include medical, social, developmental, psychological/psychiatric services, occupational therapy, physical therapy, and speech and hearing therapy. Treatment services which include individual, group and family-centered psychotherapy; individual and group speech and hearing therapy; individual and group physical therapy; individual and group developmental therapy, and individual and group occupational therapy. Evaluation, diagnostic and treatment services are to be provided on an outpatient basis and may be community-based, home-based, or center-based as consistent with the requirements of this chapter. (7-1-97)

33. Service. Evaluation, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. (7-1-97)

34. Social Worker. A person licensed in accordance with the Social Work Licensing Act, Sections 54-3201 et seq., Idaho Code, and who has specialized training in developmental disabilities or one (1) year of experience working with persons with developmental disabilities. (7-1-97)

35. Speech And Language Pathologist. A person qualified to conduct speech/language evaluation and therapy, who possesses a certificate of clinical competency in speech-language pathology or who will be eligible for certification within one (1) year of employment. Certification shall be from the American Speech Language and Hearing Association (ASHA). (7-1-97)

36. State Developmental Disability Authority. The Division of Family and Community Services, Bureau of Developmental Disabilities, within the Department which has statewide responsibility for planning, coordinating and monitoring developmental disabilities services. (7-1-97)

37. Substantial Compliance. Deficiencies identified at the time of the survey by the licensing agency that do not present a serious risk to consumers' health or safety or seriously impede the agency's ability to provide habilitative or rehabilitative services. (7-1-97)

38. Supervision. Initial direction and procedural guidance by a DDP and periodic inspection of the actual work performed at the site of service delivery. (7-1-97)

39. Targeted Service Coordinator. A regionally enrolled provider of the Department who is qualified by training and experience to develop and coordinate individual supports and services for eligible consumers of the Department, as defined in IDAPA 16.03.09, Rules Governing Medical Assistance, Section 118. (7-1-97)

40. Temporary Developmental Disabilities Site Approval. A location, established by a fully licensed agency, to provide additional services for ninety (90) or less consecutive days. (7-1-97)

41. U.L. Underwriters Laboratories. (7-1-97)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-9902

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-4602, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held in conjunction with Docket No. 16-0309-9912 and 16-0309-9913, Medical Assistance Rules. Copies of Docket No. 16-0309-9912 and 16-0309-9913 are available in this publication. The schedule of the hearing(s) to be held are as follows:

October 12, 1999, at 7:00 p.m. at the following locations:

- 1) Ameritel Inn-Blue Lakes Room, 1377 Blue Lakes Blvd., Twin Falls;
- 2) Coeur d'Alene Inn-Syringa Room, 414 West Appleway Ave., Couer d'Alene;
- 3) Sacajawea Motor Inn- Lochsa Room, 1824 Main Street, Lewiston.

October 13, 1999, at 7:00 p.m. at the following locations:

- 1) Best Western Caldwell Inn & Suites-Meeting Room, 908 Specht Ave., Exit 29 S., Caldwell;
- 2) Ameritel Inn-Pebble Creek Room, 1500 Bench Road, Pocatello.

October 14, 1999, at 7:00 p.m. at the following locations:

- 1) Holiday Inn-Ponderosa Room, 3300 So. Vista Ave., Boise;
- 2) Stardust Days Inn-Russett Room, 700 Lindsay, Idaho Falls.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

The Department proposes a new service called Intensive Behavioral Intervention for children age twenty-one (21) and under that prepares them to participate in developmental and other types of therapy delivered by DDAs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Paul Swatsenbarg at (208) 334-5512.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 27, 1999.

DATED this 13th day of August, 1999.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0411-9902

804. REQUIRED SERVICES.

Services provided shall be sufficient in quantity and quality to meet the needs of each person receiving services, and shall be provided by qualified professionals for the respective disciplines defined in this chapter. The following services, individual, group, community-based and home-based shall be available as recommended by the physician and based on consumer needs, interests, or choices to eligible consumers either by employees of the agency or through formal written agreement and shall comply with all applicable rules of this chapter: (7-1-97)

01. Psychotherapy. Psychotherapy services when provided by a physician, psychiatrist, psychologist, psychology assistant, or social worker in accordance with the objectives specified. Psychotherapy services available shall include the following: (7-1-97)

- a. Individual psychotherapy; and (7-1-97)
- b. Group psychotherapy in which there shall be a minimum ratio of one (1) qualified staff person for every twelve (12) individuals in group therapy; and (7-1-97)
- c. Family-centered psychotherapy which shall include the consumer and one (1) other family member at any given time. (7-1-97)

02. Speech And Hearing Therapy. Speech and hearing therapy services provided in accordance with the specified objectives. (7-1-97)

03. Physical Therapy. Physical therapy services provided by a licensed physical therapist in accordance with the specified objectives. (7-1-97)

04. Developmental Therapy. Developmental therapy services: (7-1-97)

- a. Shall be provided by qualified developmental disabilities staff in accordance with objectives specified; and (7-1-97)
- b. Therapy shall be directed toward the rehabilitation/habilitation of physical or mental disabilities in the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living or economic self-sufficiency. (7-1-97)

05. Occupational Therapy. Occupational therapy services provided by a licensed occupational therapist in accordance with the specified objectives. (7-1-97)

~~**06. Optional Services.**~~ (7-1-97)

~~a. Consultation for the purpose of prescribing, monitoring, or administering medications. These consultations shall be provided by a physician or licensed nurse practitioner in direct face-to-face contact with the consumer and incorporated into the individual plan with the type, amount, and duration of the service specified. (7-1-97)~~

~~b. Psychiatric evaluations and services for the purpose of establishing a diagnosis, identifying consumer strengths and needs, and recommending or implementing interventions to address each need. These evaluations and services shall be conducted by a physician in direct face-to-face contact with the consumer and incorporated into the consumer's individual plan with the type, amount, and duration of service specified. (7-1-97)~~

~~**805. --- 809. (RESERVED).**~~

805. OPTIONAL SERVICES.

Optional services include medication consultation, psychiatric advices, and Intensive Behavioral intervention. ()

806. MEDICATION CONSULTATION.

Consultation for the purpose of prescribing, monitoring, or administering medications. These consultations shall be

provided by a physician or licensed nurse practitioner in direct face-to-face contact with the consumer and incorporated into the individual plan with the type, amount, and duration of the service specified. ()

807. PSYCHIATRIC SERVICES.

Psychiatric evaluations and services for the purpose of establishing a diagnosis, identifying consumer strengths and needs, and recommending or implementing interventions to address each need. These evaluations and services shall be conducted by a physician in direct face-to-face contact with the consumer and incorporated into the consumer's individual plan with the type, amount, and duration of service specified. ()

808. INTENSIVE BEHAVIORAL INTERVENTION.

Techniques used on a short term basis that produce measurable outcomes which diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. Intensive behavioral intervention is available only to children birth through age twenty-one (21) who have self-injurious, aggressive or severely maladaptive behavior and severe deficits in the following areas: ()

- 01. Verbal And Nonverbal Communication: or** ()
- 02. Social Interaction: or** ()
- 03. Leisure And Play Skills.** ()

809. QUALIFICATIONS TO PROVIDE INTENSIVE BEHAVIORAL INTERVENTION.

A person qualified to provide Intensive Behavioral Intervention must meet the following requirements: ()

01. Degree Or License. Have at least a bachelor's degree in psychology, special education, social work, applied behavior analysis, speech and language pathology, occupational therapy, physical therapy, deaf education, elementary education or a related field or be a Licensed Professional Counselor-Private Practice; and ()

02. Appropriate Caseworker. Have successfully completed course work in applied behavior analysis, behavior modification, assessment, child development, family systems, and learning theory; and ()

03. Training Or Certification. Have Department approved training or certification; and ()

04. Experience. Have four hundred eighty (480) hours of experience in providing Intensive Behavioral Intervention with children who meet the eligibility criteria. Experience must be in serving children of a similar age to the population they will serve and must have been supervised by a person qualified to provide Intensive Behavioral Intervention. ()

(BREAK IN CONTINUITY OF SECTIONS)

811. PROGRESS REPORTS AND EVALUATION.

The provider must submit a report on the child's progress toward outcomes to the Department every one hundred twenty (120) days and seek prior authorization for continuation or modification of services. On an annual basis, a multi disciplinary treatment team that includes at a minimum, the parent(s), staff psychologist and staff providing services to the child, will review current evaluations and make a recommendation for continuation or modification of the intervention. ()

812. PARENT/STAFF CONSULTATION.

Professionals may provide consultation to parents and to other staff who provide therapy for the child in other disciplines to assure successful transition from intensive behavioral intervention to other therapies. ()

8143. -- 819. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
DOCKET NO. 16-0414-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106(l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Increases the percent of poverty used to calculate maximum allowable income for eligibility; adds the formula for computing Low Income Home Energy Assistance Program benefits; and revises the name of the procedural manual used as an instructional guide for completing the application.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before October 27, 1999.

DATED this 6th day of August, 1999.

Sherri Kovach
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(208) 334-5564 phone, (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0414-9901

003. DEFINITIONS.

Definitions applicable to IDAPA 16.04.14 are listed in Subsections 003.01 through 003.23.

(7-1-99)

- 01. Application.** The action by which a participant indicates in writing to the Department a desire to receive Low Income Home Energy Assistance. The participant will be designated as the head of household on the application; and will be the recipient of benefits for the household. (7-1-99)
- 02. Community Action Agency.** A private non-profit organization serving the low income population in specified counties of the state with which DHW has entered into a contract for the provision of services for purposes of LIHEAP. (7-1-99)
- 03. Crisis Intervention.** Energy assistance provided to an eligible participant household to reduce/eliminate an energy related health threatening situation to the household. (7-1-99)
- 04. Department.** The Department of Health and Welfare. (7-1-99)
- 05. Eligible Participant Household.** A participant household which meets the standard of eligibility set forth in these rules.. (7-1-99)
- 06. Eligible Subsidized Housing.** Public subsidized rental housing in which the tenant is responsible for all or a portion of their home energy costs. (7-1-99)
- 07. Energy Burden.** The expenditures of the participant household for home energy when compared to the household's income. (7-1-99)
- 08. Energy Supplier.** A vendor supplying home heating energy who is not a member of an eligible participant household. (7-1-99)
- 09. Fraud.** Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (7-1-99)
- 10. Fuel.** A latent form of energy used to produce residential heat. (7-1-99)
- 11. Head Of Participant Household.** The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (7-1-99)
- 12. Highest Home Energy Needs.** The home energy requirements of participant household determined by taking into account both their energy burden and unique situation that results from having members of vulnerable populations, including very young children, individuals with disabilities and frail older individuals. (7-1-99)
- 13. Income.** Income is the gross amount of moneys actually received in the participant household from all sources ~~outlined in the Department WEB Operational Manual.~~ (7-1-99)(10-1-99)T
- 14. Ineligible Subsidized Housing.** Public housing in which tenants' rental payments include all home energy costs. (7-1-99)
- 15. Overpayment.** An incorrect energy assistance payment. (7-1-99)
- 16. Participant.** An individual or group of individuals which has made application for the Low Income Home Energy Program from the state of Idaho. (7-1-99)
- 17. Participant Household.** A household is one (1) of the following: (7-1-99)
- a. An individual living alone; or (7-1-99)
 - b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent. (7-1-99)
- 18. Primary Fuel.** The type of fuel declared by the participant household to be the major source of

their home heating. (7-1-99)

19. Proof Of Income. Documentary proof to establish the participant household's financial eligibility for assistance. (7-1-99)

20. Vendor. An energy supplier or utility supplying home energy and who is not a member of an eligible participant household. (7-1-99)

21. Warrant. The document issued by the Department through the State Controller's Office as the benefit payment to LIHEAP eligible participant households. (7-1-99)

22. Wood User. An individual who cuts or buys wood for use as the primary source of home heat. Such participant households will receive a one (1) party warrant. (7-1-99)

23. Utility. A vendor of energy regulated by the Idaho Public Utilities Commission. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

151. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with ~~gross countable~~ income at or below one hundred and thirty-three percent (1303%) of the ~~current~~ OMB Poverty Guidelines, ~~which are~~ in affect at the start of the program year. Participant households must provide proof of income for all members during the application process. ~~(7-1-99)~~(10-1-99)T

01. Income Not Counted. Income listed in Subsections 151.01.a. through 151.01.s. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (10-1-99)T

- a. Benefit payments from Medicare Insurance. (10-1-99)T
- b. Private loans made to the participant or the household. (10-1-99)T
- c. Assets withdrawn from a personal bank account. (10-1-99)T
- d. Sale of real property. (10-1-99)T
- e. IRA lump sum payments. (10-1-99)T
- f. Income tax refunds. (10-1-99)T
- g. Income from capital gains. (10-1-99)T
- h. Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (10-1-99)T
- i. Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (10-1-99)T
- k. Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (10-1-99)T
- l. Legal fees or settlements from Workman's Compensation paid in a lump sum. (10-1-99)T
- m. Monies received for educational purposes from NSDL, College work-study programs, State

Student Incentive grants, SEOG, PELL, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (10-1-99)T

- n. Monies from VA-GI Bill for Education. (10-1-99)T
- o. Department of Health and Welfare Adoption subsidies. (10-1-99)T
- p. Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (10-1-99)T
- q. Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (10-1-99)T
- r. Value of food stamps or donated food to household. (10-1-99)T
- s. Utility allowance. (10-1-99)T

012. ~~When Income Considered Received Monthly.~~ For the purpose of determining To determine LIHEAP eligibility and benefit amount, when participant household income ~~which~~ is received at least monthly, ~~income received in use~~ the three (3) month's ~~period~~ income prior to the date of ~~their~~ application, ~~will be used.~~ (7-1-99)(10-1-99)T

023. ~~Income Which Is Received Less Frequently Often Than Monthly.~~ For household income ~~which~~ is received less frequently ~~often~~ than monthly, ~~including seasonal and self-employment income, their annual income amount will be converted by dividing the total amount by four (4) to get an average three (3) month amount to be used.~~ convert the income into a three (3) month amount: (7-1-99)(10-1-99)T

- a. Multiply income received weekly by twelve and nine tenths (12.9). (10-1-99)T
- b. Multiply income received every two (2) weeks by six and forty-five hundredths (6.45). (10-1-99)T
- c. Multiply income received twice each month by six (6). (10-1-99)T

04. ~~Seasonal And Self-Employment Income.~~ For households with seasonal or self-employment income divide the annual income by four (4). (10-1-99)T

035. ~~Treatment Of Alien Resident Income.~~ If a household includes ~~both~~ eligible and ~~persons~~ ineligible by virtue of their resident alien status participants, and one (1) or more of the ineligible participants had income during the reporting period ~~being reported~~, count the ineligible participants' income ~~will be included~~ to determine the household's eligibility. (7-1-99)(10-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

204. BENEFIT DETERMINATION. ~~Eligible participant households will have their benefit amount determined according to their income, county of residence, source of home energy, energy burden, and energy needs based upon the household's unique situation i.e. children under six (6) years of age, individuals with disabilities and frail individuals sixty (60) years of age or older. Eligible participant households will have their LIHEAP benefit determined using Subsections 204.01 through 204.03 of these rules.~~ (7-1-99)(10-1-99)T

01. ~~Actual Consumption Method.~~ The actual consumption method is used if the eligible participant household heats their residence with either natural gas or electricity and have resided in the residence for one (1) year or longer. Use table 204.01 to determine the base benefit under the Actual Consumption Method. The minimum base benefit is one hundred three dollars (\$103). The maximum base benefit is five hundred fifty dollars (\$550).

Table 204.01 Actual Consumption Method	
<u>Step 1.</u>	<u>List the annual consumption cost, excluding July, August and September, furnished by the energy supplier.</u>
<u>Step 2.</u>	<u>Divide the annual consumption cost from Step 1 by annualized countable income reported by the household. This gives the percentage of energy burden. 0% to 5% energy burden is low. 6% to 10% energy burden is average. 11% and above energy burden is high.</u>
<u>Step 3.</u>	<u>If the percentage of energy burden from Step 2 is low, multiply the annual consumption cost from Step 1 by 25% to determine the base benefit. If the percentage of energy burden from Step 2 is average, multiply the annual consumption cost from Step 1 by 30% to determine the base benefit. If the percentage of energy burden from Step 2 is high, multiply the annual consumption cost from Step 1 by 33% to determine the base benefit.</u>

(10-1-99)T

02. Average Annual Cost Method. The average annual cost method is used when the eligible participant household's actual consumption cost is unknown, or they use a heating source other than electricity or natural gas. Average cost is established based on information gathered from energy suppliers throughout the state. Average cost is published in the annual heating cost chart, available from the Department of Health and Welfare, Bureau of Policy, Grants Unit. The county of residence and source of home energy identify the average cost from the chart. Use table 204.02 to determine the base benefit under the Average Annual Cost Method.

Table 204.02 Average Annual Cost Method	
<u>Step 1.</u>	<u>Identify the household's average annual heating cost from the annual heating cost chart available from the Department of Health and Welfare, Bureau of Policy, Grants Unit.</u>
<u>Step 2.</u>	<u>Divide the average annual heating cost from Step 1 by annualized countable income reported by the household. This gives the percentage of energy burden. 0% to 5% energy burden is low. 6% to 10% energy burden is average. 11% and above energy burden is high.</u>
<u>Step 3.</u>	<u>If the percentage of energy burden from Step 2 is low, multiply the annual average heating cost from Step 1 by 25% to determine the base benefit. If the percentage of energy burden from Step 2 is average, multiply the annual average heating cost from Step 1 by 30% to determine the base benefit. If the percentage of energy burden from Step 2 is high, multiply the annual average heating cost from Step 1 by 33% to determine the base benefit.</u>

(10-1-99)T

03. Adjusting LIHEAP Benefit. For both actual consumption and average annual cost methods, add an adjusted benefit of twenty-five dollars (\$25) to the base benefit if the eligible participant household contains at least one (1) of the following:

- a. Child under six (6) years of age. (10-1-99)T
- b. Individual with disabilities as declared on the LIHEAP application form. (10-1-99)T
- c. Individual sixty (60) years of age or older. (10-1-99)T
- d. Household contains more than one (1) member. (10-1-99)T

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Bulletin Summary of Proposed Rulemaking

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 02 – DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

Docket No. **02-0303-9901**, Rules Governing Pesticide and Chemigation Use and Application. Combines Pesticide Use and Chemigation chapters into one chapter; adds 2 crops to the list of non-food crops; provides for consistent licensing by issuing two-year Pesticide Dealer Licenses; and revises the aquatic weed applicator category to more accurately reflect activities in this licensing category. Comment By: 10/28/99.

Docket No. **02-0304-9901**, Rules Governing Chemigation. Repeal of chapter. Comment By: 10/28/99.

Docket No. **02-0414-9901**, Rules Governing Dairy Waste. Incorporates by reference several documents; defines certified planner; redefines non-compliance and livestock waste; incorporates nutrient management plans, nutrient management standards, certification and inspection procedures into permit; includes approval of construction and operation of waste management systems in permit and certification sections; and makes non-substantive corrections. Comment By: 10/28/99.

Docket No. **02-0503-9901**, Rules for Administration of Agricultural Water Quality Cost-Share Program for Idaho - (Soil Conservation Commission). Sets guidelines for establishing, implementing and administering program that provides financial assistance to eligible applicants to reduce or control agricultural non-point source water pollution. Comment By: 10/28/99.

IDAPA 05 – DEPARTMENT OF JUVENILE CORRECTIONS PO Box 83720, Boise, ID 83720-0285

Docket No. **05-0101-9901**, Rules of the Department of Juvenile Corrections. Repeal of chapter. Comment By: 10/27/99.

Docket No. **05-0101-9902**, Rules of the Department of Juvenile Corrections and Standards for Private Contract Providers. Rewrite of chapter defines standard operating procedures for private contract providers with the Department. Comment By: 10/27/99.

Docket No. **05-0102-9901**, Rules of the Department of Juvenile Corrections, Secure Juvenile Detention Facilities. New chapter updates rule to facilitate use and compliance by local governments, updates quality assurance review procedures, and to delete inapplicable or out-dated standards. Comment By: 10/27/99.

IDAPA 07 – DIVISION OF BUILDING SAFETY 277 N. 6th St., Boise, Idaho 83720

Docket No. **07-0101-9901**, Rules Governing Electrical Inspection Tags. Changes require that Electrical Bureau receive inspection tags within seven (7) calendar days. Comment By: 10/27/99.

Docket No. **07-0103-9901**, Rules of Electrical Licensing and Registration – General. Adds provisions for specialty electrical trainees; removes references to application fees and renewal fees; updates terminology; and clarifies electrical contracting work definition. Comment By: 10/27/99.

Docket No. **07-0104-9901**, Rules Governing Electrical Specialty Licensing. Adds manufacturing or assembly equipment as an electrical specialty. Comment By: 10/27/99.

Docket No. **07-0104-9902**, Rules Governing Electrical Specialty Licensing. Establishes requirements for specialty electricians and specialty electrical trainees. Comment By: 10/27/99.

Docket No. **07-0105-9901**, Rules Governing Examinations. Clarifies authority of the board and administrator; and consolidates references to passing scores into a new section. Comment By: 10/27/99.

Docket No. **07-0312-9901**, Rules Governing Manufactured Home Installations. Provides an updated, comprehensive, and more user friendly installation standard and incorporates by reference industry developed standards intended for statewide use in Idaho. Comment By: 10/27/99.

IDAPA 08 – BOARD OF EDUCATION /DEPARTMENT OF EDUCATION
PO Box 83720, Boise ID 83720-0037

Docket No. **08-0106-9901**, State Student Incentive Grant Program. Changes to program conform to the federal changes to the Leveraging Educational Assistance Partnership program and changes name of chapter. Comment By: 10/27/99.

Docket No. **08-0202-9901**, Rules Governing Uniformity. Makes certification changes to the Administrator Certificate; the Early Childhood/Early Childhood Special Education Blended Certificate; the School Nurse endorsement; and the Family and Consumer Sciences endorsement. Comment By: 10/27/99.

Docket No. **08-0204-9901**, Rules Governing Charter Schools. Changes date for calculating unused allotments of charter schools to June 1 of each year rather than October 1 to conform with Idaho Code. Comment By: 10/27/99.

IDAPA 09 – DEPARTMENT OF LABOR
317 W. Main St., Boise, ID 83735

Docket No. **09-0130-9902**, Rules of the Benefits Bureau. Defines a week of full-time employment for a claimant using industry standards. Comment By: 10/28/99.

Docket No. **09-0135-9901**, Rules of the Employer's Account Bureau. Provides that a limited liability company which has elected to be treated as a partnership will not have to pay unemployment tax on any of the remuneration paid to its members; and provides that a limited liability company shall have the same tax status for purposes of Idaho's unemployment tax as it has for the Internal Revenue Service. Comment By: 10/28/99.

Docket No. **09-0601-9901**, Rules Governing Physical Examination Requirements and Procedures for Paid Firemen. Repeal of chapter. Comment By: 10/28/99.

Docket No. **09-0602-9901**, Rules Governing Minimum Medical and Health Standards for Paid Firemen. Repeal of chapter. Comment By: 10/28/99.

Docket No. **09-0603-9901**, Rules Governing Minimum Mental Examination Requirements for Paid Firemen. Repeal of chapter. Comment By: 10/28/99.

Docket No. **09-0604-9901**, Rules Governing Minimum Physical Performance Standards Test. Repeal of chapter. Comment By: 10/28/99.

IDAPA 11 – DEPARTMENT OF LAW ENFORCEMENT
PO Box 1177, Meridian, ID 83680-1177

Docket No. **11-1101-9901**, Rules of the Idaho Peace Officers Standards and Training Council. Updates and alphabetizes the definitions of terms; updates duties and procedures of the Council to reflect additions and changes within the program. Comment By: 10/27/99.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

Docket No. **16-0208-9901**, Vital Statistics Rules. Changes delete the restriction on the surname of a child born out of wedlock. Comment By: 10/27/99.

Docket No. **16-0301-9902**, Rules Governing Eligibility for Medicaid for Families and Children. Removes the requirement that Medicaid participants cooperate in obtaining cash child support. Comment By: 10/27/99.

Docket No. **16-0304-9901**, Rules Governing the Food Stamp Program in Idaho. Changes gross and net income limits; Restarts the ABAWD eligibility counter; deletes Work Opportunity site participation for ABAWDs to regain eligibility; changes the one-time TAFI diversion payment from countable income to a resource; adds new armed services housing allowance as earned income; adds tribal gaming income as a recurring lump sum; changes aggregate allotments to be allowed for expedite eligible households only; adds guardianship payments to be counted the same as foster care payments; deletes sexual orientation or marital or family status from the discrimination criteria. Comment By: 10/27/99.

Docket No. **16-0309-9907**, Rules Governing Medical Assistance. Clarifies and modifies the Private Duty Nursing authorization process to include parents, providers, the doctors and Department staff in determining whether the child meets criteria for PDN services and how many hours will be paid for by Medicaid; renumbers rule sections and changes terminology. Comment By: 10/27/99.

Docket No. **16-0309-9908**, Rules Governing Medical Assistance. Numerous changes made in the waiver rules that effect the Developmental Disabilities Waiver and the ISSH Waiver. Comment By: 10/27/99.

Docket No. **16-0309-9909**, Rules Governing Medical Assistance. Changes prudent lay-person definition of an emergency medical condition; adds Personal Care Services Case Management to list of services exempt from the Healthy Connections referral requirement. Comment By: 10/27/99.

Docket No. **16-0309-9910**, Rules Governing Medical Assistance. Renumbers and reformats sections; adds clinical nurse practitioner to description of practitioner of the healing arts and physician extender; clarifies when transportation services can be provided and parallels clarification in recent Federal guidelines; changes record retention requirement. Comment By: 10/27/99.

Docket No. **16-0309-9911**, Rules Governing Medical Assistance. Clarifies qualifications of individuals providing mental health services and physician oversight for protection of mentally ill individuals. Comment By: 10/27/99.

Docket No. **16-0309-9912**, Rules Governing Medical Assistance. Adds Intensive Behavioral Intervention as a new service. Comment By: 10/27/99.

Docket No. **16-0309-9913**, Rules Governing Medical Assistance. Adds Intensive Behavioral Intervention to three sections in the rule: Developmental Disability Agency, Mental Health Rehabilitative Services and School Based Services. Comment By: 10/27/99.

Docket No. **16-0320-9901**, Rules Governing Electronic Payments (EP) Of Public Assistance, Food Stamps And Child Support. Name of chapter changed; provides that participants access their benefits through EP and that Child Support payments are made through EP; provides that participants who receive child support payments through EP are solely liable for the first fifty dollars (\$50) of their unauthorized fund use; adds definition of EP Vendor; repeals policy on stale benefit accounts; provides time limit for availability of unused benefits; provides that Food Stamp benefits converted to cash when EP benefits cannot be used, must be used within seven (7) days; deactivation of EP card must be done by the Customer Service Center of the EP Vendor; participant can change his PIN by contacting the Department or the Customer Service Center of the EP Vendor. Comment By: 10/27/99.

Docket No. **16-0411-9801**, Rules Governing Developmental Disabilities Agencies. Allows for alternate qualifications for Developmental Specialists to allow for a broader variety of degrees but requires a competency course and requires additional requirements for those working with children. Comment By: 11/30/99.

Docket No. **16-0411-9902**, Rules Governing Developmental Disabilities Agencies. Proposes a new service called Intensive Behavioral Intervention for children age 21 and under that prepares them for developmental and other types of therapy delivered by DDAs. Comment By: 10/27/99.

Docket No. **16-0414-9901**, Rules Governing the Low Income Home Energy Assistance Program. Increases the percent of poverty used to calculate maximum allowable income for eligibility; adds the formula for computing Low Income Home Energy Assistance Program benefits; and revises the name of the procedural manual used as an instructional guide for completing the application. Comment By: 10/27/99.

PUBLIC HEARINGS - Public Hearings have been scheduled for the following dockets:

Board of Education and Department of Education

Docket No. **08-0106-9901**, State Student Incentive Grant Program.

Docket No. **08-0202-9901**, Rules Governing Uniformity.

Department of Health and Welfare

Docket No. **16-0309-9912** and **16-0309-9913**, Rules Governing Medical Assistance.

Docket No. **16-0411-9801** and **16-0411-9902**, Rules Governing Developmental Disabilities Agencies.

Please refer to the Idaho Administrative Bulletin, **October 6, 1999, Volume 99-10** for notices and text of all rulemakings, public hearing schedules, governor's executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

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The Idaho Administrative Bulletin and Administrative Code are available on the Internet at the following address: **<http://www.state.id.us/>** - from the State of Idaho Home Page select Administration Rules.

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